



SASKATCHEWAN

REPORT
OF THE
OMBUDSMAN

PERIOD 1 JANUARY 1984 31 DECEMBER 1984

TWELFTH ANNUAL REPORT

"The Ombudsman's Powers, far from being formidable, are in reality quite limited. The Ombudsman may only investigate, recommend and publicize. His recommendations are binding on no one; he has no power to overrule the decisions of government officials. Nor can he bring a punitive action for official malfeasance. Clearly, he cannot impede the functioning of those with whom he deals.

In my view, the phrase "a matter of administration" encompasses everything done by governmental authorities in the implementation of government policy. I would exclude only the activities of the legislature and the courts from the Ombudsman's scrutiny."

British Columbia Development Corporation vs. Karl A. Friedmann, et al (Supreme Court of Canada) (Unreported, as yet) per Dickson, C. J., at p. 41.



OMBUDSMAN

2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211



SASKATCHEWAN

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature, the Twelfth Annual Report of the Saskatchewan Ombudsman, submitted in accordance with the provisions of subsection (1) of section 30 of *The Ombudsman Act*.

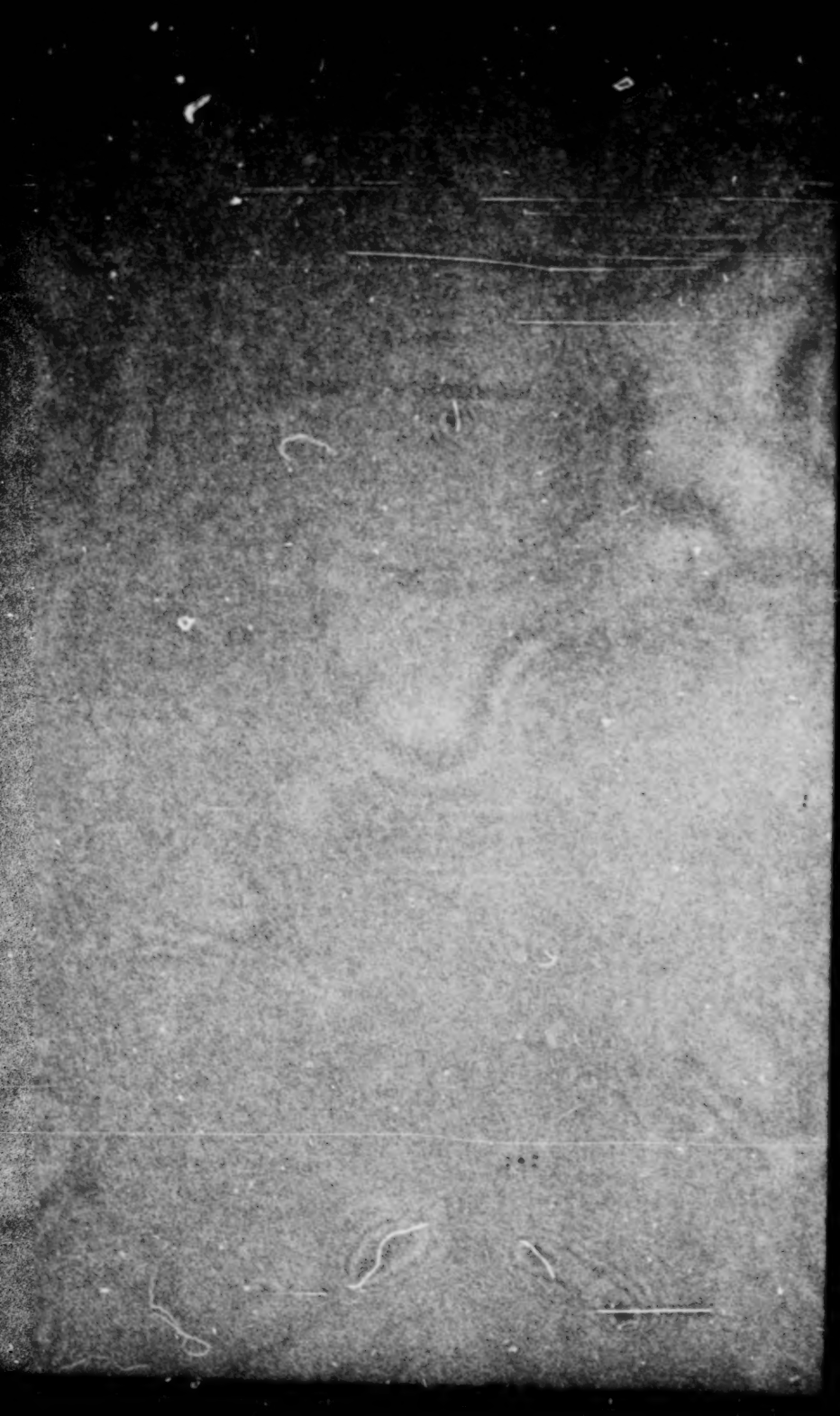
Yours sincerely

Ombudsman



PART I

HIGHLIGHTS — 1984



PART I

HIGHLIGHTS – 1984

- This is my eighth annual report to the Legislative Assembly and the twelfth for my office since *The Ombudsman Act* was enacted in 1972. This report covers the calendar year 1984.

SPECIAL THANKS

- I am pleased to report that the very considerable public service co-operation we have enjoyed in the past, continued in 1984. While differences with the bureaucracy do arise on occasion, it is important to stress that these differences are exceptions to our overall working relationship, and not the rule. Without a tradition and spirit of co-operation between my office and the public service we would be significantly limited in the assistance we provide to the many citizens who seek our help. As some recognition is overdue, I would like to take this opportunity to single out the Departments of Education, Health, Parks and Renewable Resources, and the major crown corporations for special mention. Later in this report, I have included cases to illustrate the sensitivity that these departments and agencies regularly demonstrate with regard to "people problems". In particular, I refer the members to the case summaries in Part III, starting on page 39.

AN UPDATE ON DAY CARE, CHILD PROTECTION AND S.A.P. ISSUES

- Part II of this report is devoted to providing the members with up-to-date information on some of the issues raised in last year's annual report regarding the Department of Social Services.

Last year I identified serious problems in the way the Department of Social Services investigated child abuse allegations in day care centres, and I provided case examples of how poorly some of society's more helpless persons were being treated. I also informed the members that my office was receiving a disproportionate number of complaints involving allegations of child abuse, and that most of these complaints involved children in the department's care in a number of different settings, e.g. — foster homes, adoptive homes and institutions.

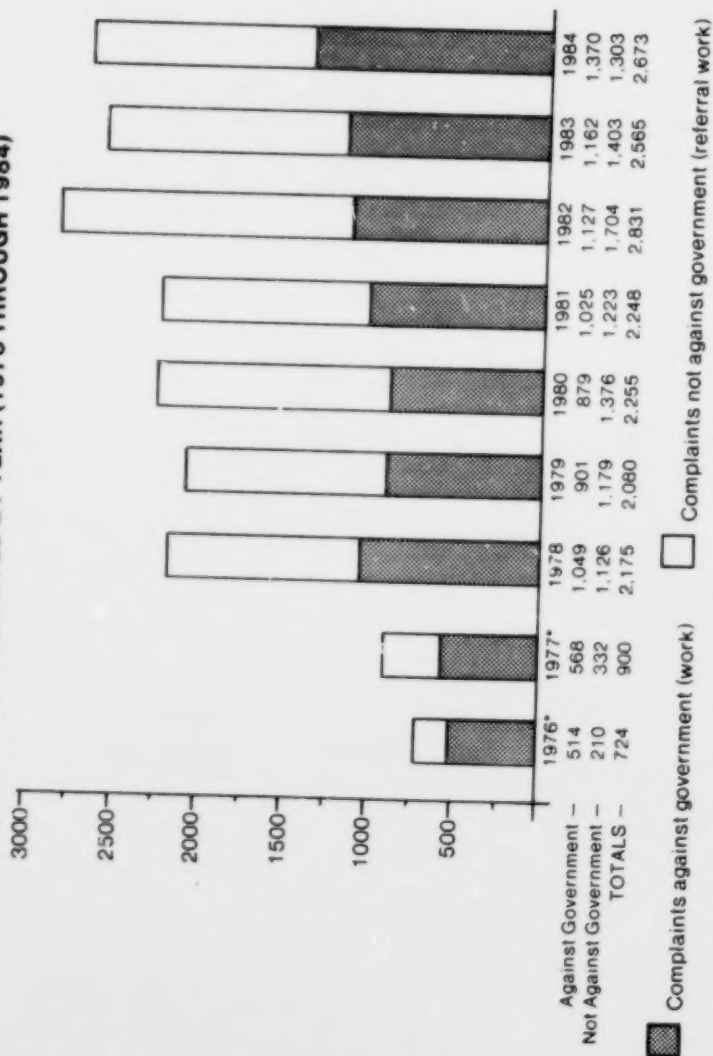
THE STAR-RATING SYSTEM

- For several years my annual report has included the collective view of my staff of the adequacy of the service being provided to the public by the major departments and agencies. This continued this year and can be found at the start of Part III, at page 34.
- The members may also remember that I expressed some guarded optimism in last year's annual report about improvements in our working relationships with the Saskatchewan Housing Corporation. As my impressions during 1984 have been somewhat mixed, Part III of my report includes a comment and some case summaries on this subject.
- While last year's report did not contain any express criticism of the Department of Labour, or cases to illustrate our concerns, my staff and I had rated the department's service to the public at the lower end of the scale. After my report was tabled, this rating prompted some discussion in the media. It also prompted the department to develop and make public some statistical information to support the adequacy of their service to the public. The cases that were the basis of our concern last year have now been concluded and a sample of these can also be found in Part III of this report, at page 39. While senior staff changes in the department produced a much improved working relationship in late 1984, I still have some very real concerns about the quality of service to terminated workers who come to the department for assistance in collecting unpaid wages and benefits.

STAGGERING INCREASES AND NO RELIEF IN SIGHT

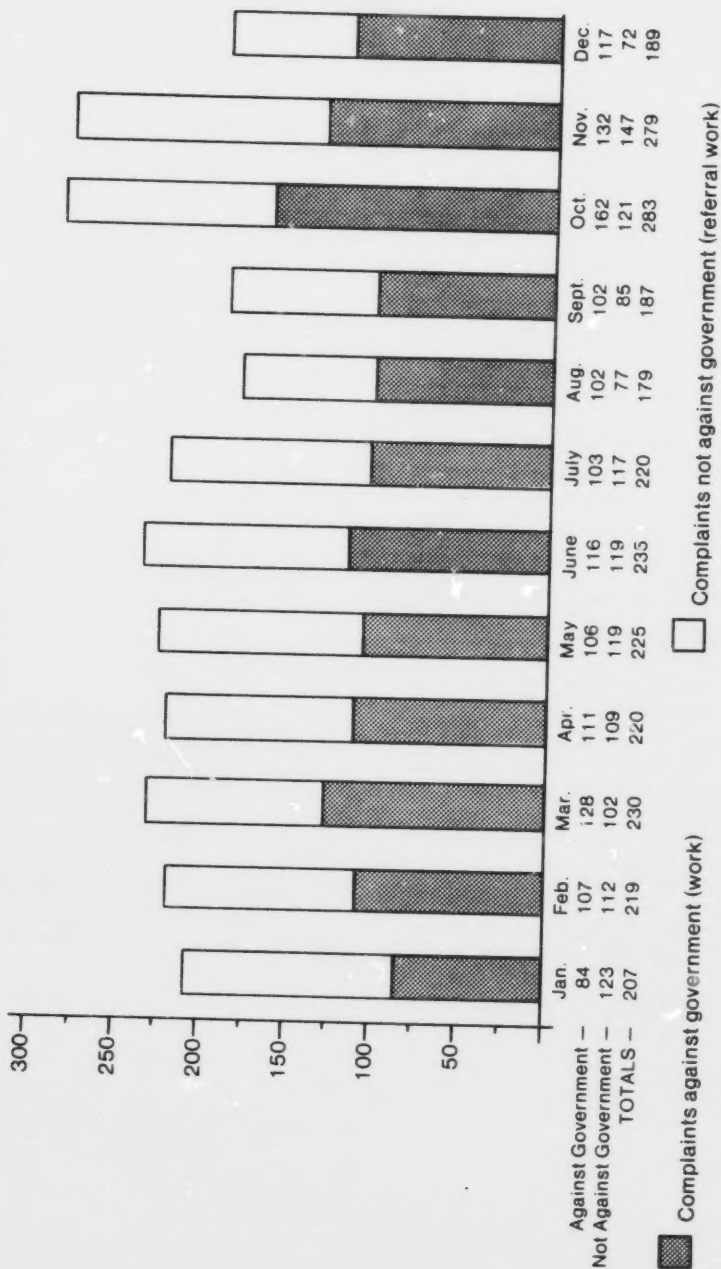
- We received more complaints against the provincial government in 1984 than ever before, with 208 more complaints bringing an increase of 17.9% over 1983. Indeed, there has been a steady upward trend since 1979. For example, complaints against the provincial government have increased by 52% (from 901 in 1979 to 1,370 in 1984) since I was last able to add to my investigative staff. Even temporary investigative assistance has been denied by the Department of Finance and the government during the past several years.

TOTAL COMPLAINTS RECEIVED BY YEAR (1976 THROUGH 1984)



* In 1976 and 1977 we had an imperfect system for recording complaints *not* against government

TOTAL COMPLAINTS RECEIVED PER MONTH (JANUARY 1, 1984 THROUGH DECEMBER 31, 1984)



Our chief difficulty in coping with these increases has been our limited investigative capacity. While we have taken measures to maximize our efficiency and our capacity to complete files, the steady upward trend in complaint volume has largely defeated us and has created a backlog in the order of 700 cases. To meet the demand I have only five full-time investigators and out of necessity, I have assigned a half-caseload each to two senior staff members. Although my staff are as productive as any in the country, they can only close from 100-120 cases each per annum. With the carryover of outstanding cases into 1985 we could have locked our doors on January 1, 1985 and still be working at full speed well into 1986.

- Since 1979 we have coped with the continuing problem of increased complaint volume by taking such steps as:
 1. Adding two new intake positions to entirely free up the investigators for investigations, and to permit premature and 'lighter' complaints to be handled without diverting scarce investigative skills to the task. Under the guidance of two senior staff members, the intake officers in my Regina and Saskatoon office serviced and closed 595 of our 1984 complaints against government. Additionally, the two intake officers provided referrals and assistance to the 1,303 persons who approached my offices with problems that were not within our authority to investigate. They cannot do more!
 2. Establishing closing targets for investigators and intake officers which are as high or higher, than those present in any other Canadian Ombudsman's office.
 3. Imposing priorities on files assigned for investigation and requiring them to be closed within specified time frames.
 4. Hiring temporary investigators, when funds were available, to reduce case backlog and cope with increases in complaint volume. No funds have been available for this purpose for the past two years.
 5. Hiring two or more, second-year law students at clerical salaries during the four summer months to assist intake and investigative staff. The two law students could produce approximately 100 closings per season. For the past two years funds have been available to hire only one such student.

In short, we had exhausted our internal strategies for coping with continuing increases in annual complaint volume by the start of 1984. Accordingly, the increases in 1984 needed to be met by additional staff. As indicated, even additional temporary staff have been denied by the Department of Finance and the government.

- I would remind the members that I perform a legislative rather than an executive function. I would also point out that section 7(2) of *The Ombudsman Act* provides as follows:

"The staff of the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act."

In my view, I do not have sufficient staff for the proper administration of *The Ombudsman Act* even though the executive branch of government obviously disagrees. I would submit, however, that the members have the ultimate right to decide the budget of my office, not the Department of Finance. The members may well come to the same conclusions as the department, but I would argue that my office is entitled to have the legislative branch, rather than the executive branch, make the decisions. In result, I can do no more than reiterate my earlier requests that the members consider:

1. Asking the executive branch of government to provide additional temporary staff resources for the office of the Ombudsman.
2. Asking the government to introduce the amendments to *The Ombudsman Act* needed to ensure that the review of the Ombudsman's budget is conducted by the Board of Internal Economy and not by the executive branch of government.

A LEGAL BREAKTHROUGH

- In last year's annual report I informed the members about an outstanding jurisdictional dispute with S.G.I., a pending decision of the Supreme Court of Canada and the fact that the Ombudsman from Quebec, Ontario and Saskatchewan had intervened at the Supreme Court of Canada on the side of the British Columbia

Ombudsman. On November 22, 1984, the Supreme Court of Canada handed down its decision and it was a landmark decision for the Canadian Ombudsmen.

In a unanimous decision of some 40 pages, the Chief Justice not only ruled in favour of the B.C. Ombudsman on the specific facts of the case, but also defined the role of provincial Ombudsmen in the broadest possible terms. The court held, after looking at all of our legislation, that the term "a matter of administration" should be interpreted liberally and that the *only actions excluded by that phrase were the actions of the courts and the legislature.*

In practical terms, this court decision enabled us to complete our investigation of the 12 S.G.I. complaints that were caught up in a long-standing jurisdictional dispute. More importantly, perhaps, the decision enlarged our area of activity and authority over and above the lines that had been developed and sustained by the Department of Justice and its predecessor department. The court expressly ruled that there was no such exclusion as "business decisions" by the crown corporations and by necessary implication, that the exclusion of "policy decisions" unless legislative in origin, were also a suspect limitation on the Ombudsman's authority.

The court's decision also brings into sharp focus the flaws in the present wording of the Saskatchewan Ombudsman Act and underscores the reasons for my regular recommendations to government over the past seven years to remove those exclusions in the Act that are conceptually offensive. The most obvious example of such a flaw is the language in the Act which currently excludes the investigation of the decisions of deputy ministers. There is no doubt but that deputy ministers are an integral part of the executive branch of government and should not be excluded from our investigative authority.

SOME TRENDS IN OUR WORK

More remedies for our clients

- Except for some general observations, I seldom make much mention in my annual report of the number of times in which we are able to remedy a citizen's problem, or the percentage of cases in which this occurs.

I have tended to let the members assess this on their own by reading the case summaries, or, if they persevere, by looking to the statistical part of my reports. I adopted this approach because the primary function of an ombudsman office is to act as a neutral by objectively investigating citizen problems. We do not advocate for a complainant until we have found in his or her, favour. Additionally, the measure of our usefulness is not solely determined on the basis of whether a remedy is obtained. For example, many people approach us because they have not been told the reasons for the decisions they receive or, if they have been given reasons, because they do not understand what is being said. Merely communicating the real reasons to complainants often satisfies them, even where a complaint is found to be not substantiated.

However, as I have some obligation to inform the members about trends in our work, I would point out that a record number of our complainants received a remedy in 1984. Over my years in office the percentage of resolved and rectified complaints has varied from year to year between a low of 10% to a high of 20%. In 1984, we closed 1,268 files and during the year resolved at an early stage or rectified during the course of our investigations, or after, 305 complaints or 24% of the files we closed. The percentage last year was in the order of 17.8% and even lower in the preceding two years.

There may, or may not, be any special significance in the fact that almost one of every four persons who came to us with a complaint against the provincial government ended up with his or her problem resolved or rectified. It may mean that government is more responsive to our findings and recommendations, or is making more mistakes; that we are more effective, for whatever reason, or that it was merely an exceptional year — or some combination of these factors. I will leave it to the members to draw their own conclusions.

Complaints from the City of Saskatoon

- Complaints from residents of Saskatoon against the provincial government increased from a previous high in 1983 (389 complaints) to a new high in 1984 (500 complaints). This represents an increase of 111 complaints, or 28.5%, over last year and constitutes 36.5% of our total complaint volume from the entire

province. By way of comparison, complaints from Regina residents totalled 309 in 1984 and represented only a 6% increase over the 1983 total of 291 complaints. Apart from some increase in complaints from the Saskatoon Correctional Centre, I literally cannot account for the balance of the increase, even though it is a trend that has been apparent for several years. Just consider that, at the end of my first year as Ombudsman, (1977) complaints from Saskatoon residents totalled 93 while there were 221 complaints from Regina residents.

Our increases in 1984 were limited to specific areas of our work

- One aspect of the 1984 statistics that may be of interest is that, unlike previous years, almost all of our annual increase occurred in five specific areas of our work. On the other hand, complaints against other departments or agencies generally stayed at last year's levels.

COMPLAINTS INVOLVING:	1982	1983	1984	Percentage Increase in 1984 over 1983
Social Assistance	107	179	253	41.3%
Workers' Compensation	140	149	194	30.2%
Sask Tel	56	48	61	27.1%
Sask Power	51	48	77	60.4%
Corrections	84	79	142	79.9%
	438	503	727	44.5%

To illustrate the point that our complaint volume in 1984 against most departments and agencies remained relatively static, I would direct your attention to the following:

Complaints Against:	1982	1983	1984
Saskatchewan Housing Corporation	13	34	34
Highway Traffic Board	23	14	14
Labour Services Division	35	23	33
Saskatchewan Government Insurance	208	211	220
Rentalsman	25	33	22
Health complaints	44	43	37
Parks and Renewable Resources	12	18	14

I would also point out that the areas of significant increase, with the possible exception of social assistance complaints, do not involve departments or agencies where we have an impression that their service to the public is below par. Obviously, other factors are at play. I would suggest the following:

SOCIAL SERVICES

Complaints about social assistance accounted for all of the very significant rise in complaints against Social Services and there appears to have been two major contributing factors — the changes to the welfare system in 1984 and the reduced availability of assistance from non-governmental helping agencies.

Without commenting on the changes per se, I think it is valid to say that the welfare system has been "tightened" and this was reflected in the increasing number of people approaching us with social assistance concerns. I can reasonably suggest that more than half of the social assistance clients who approached us in 1984 did so because of the new rules introduced to implement the welfare reforms. Whether or not I am correct in this assessment depends on the outcome of some current investigations and final conclusions will have to be dealt with in future reports.

As well, social assistance clients now seem to feel a need to contact my office earlier than previously, because fewer alternatives are available to them. The non-governmental agencies which service many of these persons are now less able to do so and, additionally, the private advocates retained by the department to assist clients were less available in some regions. For example, there is presently only one advocate in the Regina Region and none in many rural regions to aid the very many persons who need help in finding their way through the two-tiered appeal system.

My office is an office of last resort and generally we act only after all other means of appeal and review have been completed. However, in the absence of other persons and organizations to turn to, social assistance recipients appear to be in my office at an earlier date and who can blame them, as many are destitute in the fullest sense of the word.

In summary, I can only conclude that a combination of the general economic factors, the "tightening" of the social assistance system and government restraints vis-a-vis community resources formerly available to social assistance clients produced the unusual demand we experienced in 1984. I am expecting to see a continuation of these increases in 1985 and beyond.

WORKERS' COMPENSATION

In difficult times people are more liable to challenge the financial decisions that affect them, and nowhere is this more apparent than in the sphere of workers' compensation. In today's restraint economy, injured workers are less likely to find alternate employment and are more likely to find themselves on social assistance, perhaps for the first time, where compensation claims are not accepted or compensation benefits are terminated. I have been unable to detect any specific changes or restrictions in the level of service provided by the Board, in all its various branches, that could otherwise account for the increase in complaints.

However, in addition to general economic factors, I also believe from what we have been told by our complainants that a different factor was behind many of the decisions to approach our office in 1984. Ironically, this involved the Department of Labour rather than the Workers' Compensation Board. Many of our complainants indicated that inordinate delay in the Worker's Advocate's office was the source of their discontent, and their primary reason for seeking our assistance. Generally, the concern was not with the quality of the advocate's work, but with the time it took before an advocate could act on their case. As it had always been my policy to refer compensation cases to the advocates before we initiated investigations, I became increasingly concerned. This prompted me to open an investigation on my own motion in early 1984, to quantify the delays and determine the causes.

From this it was apparent that the advocates were doing the best they could in particularly difficult circumstances.

Even though their caseloads have always been high, the problem had been compounded over the previous two years by the departure and firing of advocates, the slow rate of replacement

and the lack of temporary assistance during leaves of absence, for educational and other reasons. By admissions from the Department of Labour, an injured worker approaching the Worker's Advocate office last April would have waited an average of seven months or more before an advocate had a first opportunity to look at the claim.

Recommendations were made to the department and these were accepted. Details of this case and an update can be found at page 45.

SASK TEL AND SASK POWER

While we have encountered some increases with respect to these two utility corporations, I have no cause to believe that the reason is other than the prevailing economic climate. The majority of complaints involved account and collection matters and were not complaints that touch on other kinds of problems within the two crown corporations. Many of the complaints arose simply because people were short of funds or were in desperate need of debt counselling.

On the other hand, Sask Tel and Sask Power appeared to be taking their usual approaches towards customer account problems, and I have not detected any special change in corporate procedures that would give rise to such increases in complaint numbers.

CORRECTIONS

No sooner had I said in my last annual report that inmate complaints had levelled off in the 75-85 complaints/year range, (for the second year) than the statistics took off again.

While an increase of almost 80% is not to be ignored, we have experienced high inmate complaint levels in the past, i.e. — 118 in 1981. Additionally, the subject matter of the complaints in 1984 was considerably "lighter" than the kinds of things we were encountering three or four years ago.

While corrections officials can likely provide a more enlightened view of the reasons for some increased dissatisfaction in the Centres, it is my own view that serious overcrowding and consistent high population counts had a role to play. In late summer it was necessary for the Corrections Branch to invoke a "nine-month rule" that required offenders serving more than 9 months in the Prince Albert and Saskatoon Centres to transfer to the Regina Correctional Centre, away from the supportive network of family and friends. This decision produced complaints to my office but certainly not in sufficient numbers to account for most of the increases we experienced. However, high inmate population counts are a current and urgent problem for the justice system, as it very much works against any attempts to rehabilitate inmates. It is a particularly serious problem for inmates from northern Saskatchewan and was a part of the initial rationale for the development of the Creighton and Buffalo Narrows Correctional Centres. At that time, it was thought the Prince Albert and Saskatoon Centres were too far away from home and family. Now, because of overcrowding, many inmates from northern communities are in the Regina Correctional Centre. This is a serious and continuing problem that needs to be promptly addressed by corrections officials.

It may also be of interest to the members to know that a disproportionate number of our 1984 inmate complaints came from inmates at the Saskatoon Correctional Centre. In this regard, I have included a breakout of the location of the inmates who complained to my office in 1983 and 1984.

<u>Inmate Complaints</u>	<u>1983</u>	<u>1984</u>
Prince Albert C.C.	13	18
Regina C.C.	29	33
Saskatoon C.C.	29	84
Pine Grove C.C.	5	6
Buffalo Narrows	—	1
Community C.C.		
Danielson Correctional Camp	1	—
Green Lake Correctional	1	—
Camp		
Hudson Bay Correctional	1	—
Camp		
Total	<u>79</u>	<u>142</u>

GENERAL

THE PROPOSAL FOR A HEALTH OMBUDSMAN

- In 1984, the Saskatchewan Branch of the Consumers Association of Canada passed the following resolution:

BE IT RESOLVED THAT C.A.C. (Saskatchewan) urge the Government of Saskatchewan to create the position of a Medical Ombudsman within the office of the Ombudsman, who would be impartial, unbiased and independent and have the authority to investigate and recommend remedies to problems arising in health care related situations, including those related to medical, dental, ophthalmic, home care, ambulance, special care homes and other health care delivery systems.

Based on my current and previous work experience, I have no doubt whatsoever about the need. I am also satisfied that a Health Ombudsman cannot be effective unless he or she has the independence and authority enjoyed by the provincial Ombudsmen. Frankly, I feel much more strongly about the need for this initiative than whether it is a part of the provincial Ombudsman's mandate provided the 'independence' tests are met. I would urge the government to give this matter serious consideration, as examples abound of the need for this kind of citizen remedy. It has operated with considerable success in both The United Kingdom and several U.S. States.

THE PROPOSAL FOR FREEDOM OF INFORMATION AND PRIVACY LEGISLATION

- In my 1979 and 1980 annual reports, I urged the government of the day to seriously consider legislative initiatives in this area. In 1981, a study was authorized and in June of 1982, a Report was issued. Since then, this has been a subject dominated by silence. Being denied access to government information only feeds public cynicism about the quality of the decisions made

by public servants. Such concerns, like so many others, could be allayed by reasonable access to relevant government information. Examples of the need are everywhere in the work of my office. I would encourage the members to reconsider this issue.

Lest it be thought that Mr. Culliton's recommendation that my office bear the burden for this responsibility is a factor in my raising this issue, I am assuring the members that this is not the case. Frankly, the right to ultimately put these issues before the courts is essential in my view and was not a part of Mr. Culliton's recommendations. I don't believe the system can work without recourse to the judicial system and I would be extremely reluctant to assume this responsibility on the basis proposed in his report. Again, I am addressing the need for this legislation, not the mechanics of how it should be implemented.

OUTREACH

- In October of 1984 we introduced a toll-free line to our Regina office for residents of southern Saskatchewan. Since October we have averaged more than 100 calls per month on this line.

For budgetary and other reasons, fewer temporary offices were opened in 1984 than in previous years. Apart from investigator visits in the Northern Administration District, temporary offices were only opened at Moose Jaw in April, and at Prince Albert in October.

BUDGET

- The office's budget for the fiscal year 1984-85 was only 2.3% greater than in 1983-84. The following amounts were approved:

	1983-84	1984-85
Salaries —	\$537,860	\$552,860
Investigator and other travel expenses —	16,860	18,100
Other contractual services —	79,450	77,860
Material, supplies and equipment —	6,870	7,320
	<u>\$641,140</u>	<u>\$656,140</u>

FORMAL REPORTS

- For the second year, there were about 90 occasions when substantiated complaints were not resolved at an early stage and recommendations became necessary. As past annual reports have merely reported on this subject on an annual basis, I am providing an update on the status of the recommendations that I have made during the past three years.

Recommendations/year/result – December 31, 1984

	Total	Accepted	Rejected	With- drawn	No Juris.	Out- Standing
1982.....	74	42	1	28	—	3
1983.....	91	58	6	11	—	16
1984.....	92	45	2	5	1	39
Totals	257	145	9	44	1	58

Since January 1, 1982, I have presented the government with 257 recommendations. Final decisions had been made on 199 of these by the end of 1984. The 199 recommendations have produced 145 acceptances (72%).

It was only necessary to submit one Report to Cabinet in 1984. This Report and its recommendations were rejected by Cabinet in the fall of 1984 and will be the subject of a Special Report to the members.

STAFF

- This was an exceptionally difficult year for the staff of the office. Our resources were stretched beyond the limit by increased public demand for our services. The staff also had to cope with the prolonged, but necessary, absence of two key members, the departure of an experienced investigator, the imminent departure of another and no reduction in the demands that the public and I place on them. With considerable difficulty, the staff responded admirably to these challenges and did so with what remains of their good humour. I am very appreciative.

REGINA

Gordon K. Mayer — Solicitor to the Ombudsman
W. Kenneth Barker — Assistant to the Ombudsman (Regina)
Earl A. McKeen — Chief Investigator
Murray Knoll — Investigator
Blair Herbert — Investigator
Carol Spencer — Intake Officer
Joan Uhren — Executive Secretary
Lana Stefan — Clerk-Typist
Nolene Driol — Clerk-Typist
Gerry Kelly — Law Student (Temporary)

SASKATOON

Gil R. Thomson — Assistant to the Ombudsman (Saskatoon)
Ray 'Wah! — Investigator (former)
Glenda Cooney — Investigator
George Inkster — Investigator (Temporary)
Joni Sereda — Intake Officer
Joyce Strate — Clerk-Typist
Colleen Taylor — Clerk-Typist

THE WIZARD OF ID



by Brant parker and Johnny hart



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PART II

**AN UPDATE ON THE SOCIAL SERVICES ISSUES
IDENTIFIED IN LAST YEAR'S ANNUAL REPORT**

PART II

AN UPDATE ON THE SOCIAL SERVICES ISSUES IDENTIFIED IN LAST YEAR'S ANNUAL REPORT

In the annual report that I tabled in the Legislative Assembly in May of 1984, I identified three areas of problem and provided case examples with respect to two of those areas of difficulty. Specifically, I documented by way of actual cases, problems that I perceived in the handling of child abuse allegations in the day care system and in the department's treatment of social assistance recipients. The third area was primarily an alert to the members regarding a dramatic increase in child protection complaints involving children who were in the care of the minister.

Day Care

Between the time I wrote my last annual report and it being tabled in the Assembly last May, some progress had been made on this issue. In late January 1984, new procedures were established by the department to govern the investigation of child abuse allegations in day care centres. In general terms, the responsibility for these kinds of investigations moved from the day care branch to the "child protection side" of the department, the interviewing of certain persons was made mandatory and reasonably short time frames were imposed on the investigation of these complaints and the reporting of the result.

In May of 1984, I was presented with an early opportunity to test the new process when I received a complaint from the parents of a child in a northern day care centre. The department's new procedures notwithstanding, I concluded that the investigation, made in March and April, was inadequate and I communicated my findings to the deputy minister by letter of July 26, 1984, recommending the case be re-investigated.

In particular, I found that the new requirements about interviewing "all relevant persons" and "parents" had not been observed. Seven persons were interviewed in the department's initial investigation while our investigation saw 19 persons interviewed. By not casting the net sufficiently broadly, the department's conclusion was not entirely surprising. The only real evidence about the alleged mistreatment came from persons who had not been interviewed by the

department. Additionally, when the department first proposed its new procedures and the transfer of these investigations to the Child Protection Branch, I expressed reservations that the child protection people would apply the same tests used in apprehensions under *The Family Services Act* to the investigation of allegations involving children in day care centres. My concern appeared to be borne out in this case, as the parents were told that the word 'abuse' was 'pretty strong stuff' and, because there were no bruises or broken bones, nothing could be proved.

The department accepted my primary recommendation and re-investigated the case. In early October, I received a copy of the re-investigation and a very complete and lengthy report regarding my other findings and recommendations. In result, I was satisfied that a proper investigation had now occurred and I was not prepared to take issue with the conclusions reached by the department after it had thoroughly re-investigated the matter.

However, not all of my recommendations in this file have been accepted. Over the past several years it has become increasingly apparent that government systems, generally, and the Department of Social Services, in particular, are not sufficiently "professional" in the kinds of investigations they conduct. Even if one discounts the fact that I run an investigative agency and that our investigative standards are high, there is still cause for concern in the quality of some government investigations. This is particularly true in the case of the Department of Social Services and its duty to investigate allegations of child abuse in the day care system. Other examples can be found later in this report at p. 38, in my comments and cases involving the Department of Labour. For this reason, one of my as yet unaccepted, recommendations is that the department ensure that it have "professional" investigative advice available to it in the course of making decisions on child protection investigations. To date, the department has not accepted this recommendation.

Over the years, our investigations have disclosed a number of serious flaws in the approaches adopted by the department in the course of investigating child protection issues in the day care system. In a paper presented to the Child Care Conference in Prince Albert last October, I shared a list of the investigative errors and suggestions we had developed after investigating a number of the department's investigations involving day care centres. I am reproducing this list to illustrate the need for "professional" investigative skills in these kinds of investigations.

- "1. Never use parent questionnaires as a part of a child abuse investigation. These questionnaires certainly have some relevance with regard to other "standards", issues and to the licensing decisions the department has to make on occasion. However, the questionnaires are a source of *totally unreliable and irrelevant* information in a proper child protection investigation.
2. Personal interviews are essential. Interview by telephone is not an acceptable or credible investigative technique in these cases.
3. The mistreatment of a child is a very serious allegation that could have criminal consequences. For this reason, investigations-by-committee are inefficient and have a tendency to inject an unacceptable element of compromise in what is essentially a fact-finding exercise.
4. Preparation — not only should some thought be given to the persons who need to be interviewed and the kinds of questions that need to be asked, but consideration should also be given to the *order* in which these persons are to be interviewed.
5. It is *essential* that the parent of *any* child involved in this kind of allegation *be interviewed*.
6. It is also essential that every person who is or was a member of the staff at the relevant times be personally and privately interviewed on at least one occasion. Do *not* overlook former staff just because they may be a little more difficult to locate. I can provide several examples where former employees have provided invaluable information. Unlike current staff members, they usually have nothing to fear. On the other hand, they may have an axe to grind but if this is a factor, it is one that should only be taken into account after the facts have been gathered.
7. If new and relevant information is developed during the course of an investigation, "earlier" witnesses should be re-interviewed. This is especially true with regard to the person who has been accused of misconduct, i.e. — the accused **MUST** have the opportunity to rebut, admit or qualify any and all information.

8. Exhaustive efforts should be made to obtain corroboration of relevant and crucial facts from other independent sources.
9. Don't overlook the possibility that there may be documentation that may be relevant, e.g. — attendance records, shift schedules, letters from parents, medical reports, etc.
10. Do not automatically exclude the possibility of interviewing the child involved in the allegation. There are often situations involving older children where useful information can be obtained if these children are interviewed in a comfortable and non-threatening setting. Where interviewing a child makes sense, great care should be exercised to make sure that the interviews do not occur at the day care centre or in the presence of employees or other persons associated in the child's mind with the centre. A child should be interviewed in the presence of a person, family or otherwise, in which he or she has confidence. It is also imperative that a child be interviewed on as few occasions as possible. Considerations should also be given to recording a child's interview if he or she is not intimidated by the presence of a recording device.
11. The decision-maker must set aside his or her view of the credibility of the witnesses until all the evidence is in. This should only become a factor when there is a conflict of information and corroboration is not available.
12. When decisions are being made on the information developed by an investigation, it is imperative that the decision be based on relevant information and not on the practical consequences of the decision. A case of mistreatment will either be established or it will not be established. The consequences for the board members and/or employees, the effect on the availability of day care places in a community or the licensing consequences for a particular day care are not relevant to establishing whether or not mistreatment occurred."

Other Child Protection Issues

Last year, I informed the members that I was concerned about the increase in complaints involving children in the care of the department in foster homes, adoptive homes and institutions. I also undertook to report on this subject when these cases had been concluded. While not all of these files have been concluded, I am comfortable in sharing my current impressions with the members.

Only two of our concluded cases involved the handling of wards in an institutional setting and both of these complaints were found to be not substantiated. In one case, not only had the child been handled appropriately by the institution, but also by the department before he was placed in Kilburn Hall. The only case involving child abuse in a pre-adoptive setting is not yet concluded for legal and other reasons. However, I can assure the members that this case does not appear to involve blatant errors on the part of the department. At worst, it raises questions about the adequacy of the safeguards in place at the relevant times to 'weed-out' unacceptable adoptive parents, and about the need for the department to better monitor pre-adoptive placements.

Most of the child protection complaints that we concluded in 1984 involved children in foster homes. While concern about the risk to children usually prompted these complaints, it was not the only motive. In this sense, our mix of complaints was similar to the briefs received by Dr. Matthews in the course of his hearings. If you looked behind the literal complaint, persons were basically questioning the judgment of the department in its approval of certain foster parents, in its arbitrary decisions to remove certain children from some foster homes and its inadequate systems for properly monitoring the foster care system. On the basis of our investigations, I now share these concerns. I would emphasize that I am not adopting the notion that social workers have too much authority or exercise poor judgment. While this is how it may have appeared on occasion to natural and foster parents, the real culprits in my view, are the flaws in the present system and its procedures, and *not* the actions and motives of the individuals in that system.

For example, on the basis of several investigations, it became apparent that after a foster home was approved no person in the department was directly responsible to monitor the home itself, as opposed to the children in the home. After approval, the safety of the children in the home depended on the alertness of individual child care workers. As the worker's knowledge would be limited to his or her 'child's' relationship with the foster parents, it was an understandably limited insight.

In the course of our investigations, we also regularly found reports from child-care workers expressing alarm about foster parent attitudes and changes in their circumstances with little or no action by the department. In pursuing the reasons for departmental inaction, the answer became very clear — no one was clearly responsible to

follow-up on the problems being identified by the child care workers or to generally ensure that the quality of a home had not deteriorated since its original approval as a foster resource. In one case, the foster parent had moved several times, and had been divorced and remarried on three occasions over the course of 14 years without a comprehensive re-assessment by the department of the suitability of her home. In another case, the foster parent had become a fully-employed single parent since the home was approved and the foster children in the home had become 'latch-key' children without there having been any adequate re-assessment of the situation.

Since early 1984, the department relied on a 'primary' worker to be responsible for assessing the foster home and co-ordinating its activities after it was approved. It appears that the first child care worker to place a child in a new home was to assume responsibility for the home as well as the child on a continuing basis. It also appears that this approach is not working. The demands on staff, their promotions and departures and other factors, works against this kind of arrangement and likely is still doing so.

When senior officials were questioned on the operation of the policy, it was conceded that there was still not sufficient staff to ensure compliance with the new policy. In other words, contact still relates to the children in a foster home and not to the home itself. In this kind of situation, there continues to be risks to some foster children. My recommendations on this subject are with the department.

On a more positive note, the department is to be commended for the attention and effort it has devoted in the past year to family and child issues. The Matthews Committee and the discussion paper on legislative proposals to change the thrust of the current Family Services Act are examples in point. These legislative proposals have been held out as a solution to the kinds of problems we have been identifying since 1980. Unfortunately, much still remains to be done to ensure that children are not at risk in Saskatchewan society and in particular, not at risk while in the care of the department and the minister.

At the time of writing, discussions are still underway with the department with respect to additional changes in their procedures and those of my recommendations that are still outstanding. It is hoped by the time this report is tabled that more of these issues will have been resolved. In the meantime, I would indicate that there has been progress on these issues but that there still is a long way to go.

SOCIAL ASSISTANCE

In my last report, I expressed real dismay at the manner in which some social assistance recipients were being treated by the department and provided six cases involving persons who were mentally or physically infirm, illiterate or exceptionally young, to illustrate the problem. Before and after, my report was tabled, there was considerable movement with regard to the day care question and the other child protection issues that I had raised. As the department's actions with regard to the social assistance issue were not discernible, I wrote the minister on June 12th for further details. I received his response on July 25, 1984. The relevant parts of my letter and the minister's response are reproduced here for the information of the members:

"I am somewhat less clear about the steps the department is taking to mitigate the number of situations in which our investigations are indicating that reasonably helpless social assistance recipients are being given short-shrift by department staff on occasion. Some amplification in this area by Walter or yourself would be appreciated.

When your deputy and I were in Saskatoon several weeks ago, I indicated that the kinds of discourtesies we were identifying were unlikely to be intentional on the part of the department's employees. In my own view it is a sign of stress within the department and solutions to these kinds of problems likely depend on identifying those stresses and minimizing them. As a postscript, I should add that the examples included in this year's annual report with regard to social assistance cases may well have always been present in the system. I literally lack the resources on an across-the-board basis to investigate complaints where the citizens problem has been resolved to his satisfaction. In 1983 we did pursue these kinds of investigations and the result was not encouraging. For obvious reasons, I will be adopting the same approach in 1984 and selectively investigating the manner in which social assistance recipients and appellants are 'handled' by the department, even if their problems have been resolved through the appeal process or our or other interventions on their behalf."

... my letter of June 14, 1984.

"I would agree that stress could well be a factor on occasions where there is an inappropriate response by staff to clients. We have also identified the need to better define requirements for quality of service and public relations as factors that might improve the nature of responses by staff.

The Department, therefore will be focusing attention in the following areas during the current year and beyond:

- 1) Regular *conferences* for field staff which will provide a forum for identification of staff needs, program development needs, and response to these needs. My department has held one such program this spring and a September session is now being planned for staff.
- 2) Development of a *training package* for field staff that includes roles, responsibilities, and expectations both on a program/service level and on a public relations level.
- 3) Provision of *training* to supervisors that emphasizes matters such as field staff support involving educational and administrative training and stress management.
- 4) Continued *emphasis on automation and work simplification* processes that will reduce field staff administrative functions and allow increased client service. As an example, we are currently installing client index terminals in field offices which will reduce the number of forms field staff must complete in maintaining our client registration system. The department is in the process of automating income security systems to provide more appropriate tools for our workers.
- 5) *Continued analysis of specific client requirements* in terms of human resources best equipped to provide service. Examples of this process include recent creation of Assessment/Placement positions to assist employable clients in assessing the most appropriate training for their needs. A further example is our pending transfer of service to 16 and 17 year olds from Income Security to Family Support, the latter division being more suitably equipped to provide service to this group.

My department is committed to *on-going adaptation and modification of measures to improve staff performance* based on re-

definition of their needs. *Our overall approach will likely continue to emphasize staff training, clear expectations and reduction of administrative overload in the workplace.*"

(emphasis mine)

... the minister's letter of July 25, 1984.

While I was unable (in 1984) to devote as many of our scarce resources to the investigation of this particular issue as I might have wished, we did investigate sufficient cases to enable me to conclude that *if* the situation has improved it has only improved in a marginal way. While it is difficult to segregate the effects of increased client pressure on the department, the changes in the social assistance system (welfare reform) and staff attitudes, it is certainly my impression that the kinds of problems in the social assistance system that I identified last year are still with us. For whatever reason, we are still regularly encountering an abundance of "Catch-22" situations and a preoccupation with financial requirements rather than with providing the guidance and counselling that might permit some social assistance persons to limit or eliminate their dependence on the "welfare system".

While this year's cases were of a less dramatic variety in that they do not involve the ill, the aged or the problems of illiterates, I believe they still illustrate the concerns I expressed last year regarding the department's attitude and policies towards persons on social assistance. I am more convinced than ever that stress is the source of the problem and that additional resources rather than training in public relations is the answer.

PART III

OUR STAR-RATING CHART AND CASE SUMMARIES

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PART III

"WHO 'RATES' THE PUBLIC SERVICE?"

... on this occasion, the short answer is that the staff of the Ombudsman and the Ombudsman are prepared to do so."

1981 Annual Report, p. 7.

Since 1981, I have polled my staff on their impressions of the service being offered to the public by the major departments and agencies and shared our collective conclusions with the members. I am doing so again this year.

What started out as an internal and semi-serious assessment of the bureaucracy has become a very serious exercise because of the reactions by the public service. I really doubt that the ratings would have continued in their present form if senior officials had ignored our conclusions or had not attempted in subsequent years to find our 'how they were doing'. In any event, here we go, again.

GARFIELD



By Jim Davis



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"BALLOT

The purpose of this ballot is to rate the quality of the service to the Saskatchewan public by its public service. Service to the (occasionally-suffering) Saskatchewan public by a department or agency may range from a rating of one-star for less than minimum service to a five-star rating for exceptional service.

★	Less than minimum service
★★	Minimum service
★★★	Average service
★★★★	Very good service
★★★★★	Excellent service
To be rated	This department or agency cannot be rated yet as our case experience is too limited.
	This department or agency is approved at a given level on condition that deficiencies will be remedied within a specific period of time or in recognition of the fact that it is in the course of re-organization "

	1983	1984
ADVANCED EDUCATION AND MANPOWER	★★★★	★★★★½
AGRICULTURE		
— General	★★★★	★★★★
— Lands Branch	★★★	★★★
— Saskatchewan Crop Insurance Board	★★★★½	★★★★½

CONSUMER AND COMMERCIAL AFFAIRS

— General	★★★½	★★★
— Rentalsman	★★½	★★★
— Rent Appeal Commission		★★★

EDUCATION	★★★★	★★★★
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ENVIRONMENT	★★★	★★★
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SASKATCHEWAN WATER CORPORATION		To be rated
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HEALTH

— General	★★★★	★★★½
— Saskatchewan Hospital Services Plan	★★★★	★★★★
— Saskatchewan Medical Care Insurance Commission	★★★½	★★★★

HIGHWAYS AND TRANSPORTATION

— General	★★★★	★★★½
— Highway Traffic Board	★★★★	★★★½

JUSTICE

— General	★★★	★★★★½
— Corrections Branch	★★★★½	★★★★½
— Criminal Injuries Compensation Board	★★★★½	★★★
— Saskatchewan Police Commission	★★★★½	★★★★½
— Saskatchewan Human Rights Commission		★★★★½

LABOUR

— General	★★	
— Workers' Advocate		★★★
— Labour Services Division		

MUNICIPAL HOUSING AUTHORITIES

	★★½
--	-----

PARKS AND RENEWABLE RESOURCES

★★★	★★★★½
-----	-------

PUBLIC SERVICE COMMISSION

★★★★½	★★★★½
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REVENUE AND FINANCIAL SERVICES

— General	★★★★½	★★★★½
— Public Employees Benefits Agency	★★★★	★★★★

RURAL DEVELOPMENT

★★★½

★★★★½

SASKATCHEWAN GOVERNMENT INSURANCE

— General

★★★★½

★★★★½

— Claims

★★★

★★★

— Motor Licensing Division

★★★★½

★★★★

SASKATCHEWAN HOUSING CORPORATION.....**SASKATCHEWAN POWER CORPORATION.....**

★★★★

★★★★

SASKATCHEWAN TELECOMMUNICATIONS.....

★★★★

★★★★

SOCIAL SERVICES

— General

★★★



— Community and Personal Services Division

★★½



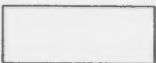
— Regional Services Division.....



— Provincial Social Services Appeal Board



★★★

TOURISM AND SMALL BUSINESS.

★★★★½

URBAN AFFAIRS

★★★½

★★★½

WORKERS' COMPENSATION BOARD

★★★½

★★★½

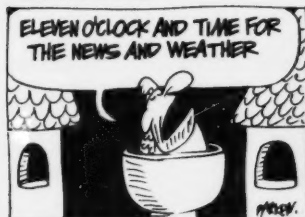
THE DEPARTMENT OF LABOUR — A COMMENT

As indicated earlier, the Department of Labour has been consistently rated by my staff as being substandard in its service to the public. One of our major contacts with the department involves persons who come to us because they are dissatisfied with the Labour Services Division's efforts to obtain wages for them after they have lost their jobs. The other major contact is with the Workers' Advocates Office. The department is directly responsible for the provision of advocate services to assist injured workers in their dealings with the Workers' Compensation Board. Dissatisfaction in both of these areas of departmental responsibility contributed to our low rating of the department's service in last year's report. The investigations upon which our judgment was based were not concluded at the time the last annual report was written. In result, our rating stood alone and case examples can only now be provided.

Over the years I have had several differences of opinion with the Department of Labour as to what constitutes an adequate investigation of a claim made under the provisions of *The Labour Standards Act*. The cases reported below serve to illustrate my concern.

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART



By Permission of Johnny Hart and
News America Syndicate

#83-16000-10-07

#83-16000-10-08

In this case two girls, Ms. L and Ms. N complained that the Department of Labour had failed to assist them in a claim for pay in lieu of notice after they had been unjustly fired from their employment as waitresses in a hotel lounge for returning late from holidays. As it happens, the department had investigated the claim from one of the girls, Ms. L and advised her thus:

"In regards to your complaint filed in our office on June 1st, 1983, re the above named.

From an audit of payroll and investigation, it has been found that you were scheduled to take annual holidays from April 26th, 1983 to May 17th, 1983.

When you did not return to work as scheduled, you, in fact, terminated your own employment by not showing up on your scheduled day of work. Therefore, you would not have a claim for pay in lieu of notice as you claimed on June 1st, 1983."

Ms. N had approached the department's Labour Standards Office later than Ms. L and was told she was not entitled to annual holidays when she took time off. She had taken the same time off as Ms. L and they had both terminated their employment by failing to return as scheduled, in the opinion of the employer *and* the Department of Labour.

The complaint from the two girls was accepted for investigation by my office. I should perhaps point out at this juncture that our investigation was directed towards assessing the sufficiency of the inquiry conducted by the department's inspector. We were not primarily concerned with investigating the merits of the claims against the employer.

In the case of Ms. N, it was admitted that no investigation had been made; the inspector relied on his view of Ms. L's case. Whether this was sufficient depended on the handling of Ms. L's claim and on the validity of assuming the circumstances were precisely the same in both cases.

In presenting her claim to the department, Ms. L stated she had received approval for vacation leave from April 26 to May 16, 1983, with approval also for an additional week off without pay. She indicated the assistant bar manager approved her leave. During the vacation Ms. L. discovered she was shown as scheduled for work on May 18, although she had approval for time off to May 23.

From our inquiry into the matter, it was found that the department inspector had examined the hotel's records and had talked to the manager and assistant manager of the hotel. The inspection report indicated the management position was that Ms. L had asked for extra time off, but this had not been approved, and the report concludes the employee had effectively terminated her own employment by failing to turn up for work as scheduled.

Contrary to this conclusion, Ms. L states she had had the additional time off approved by the assistant bar manager, and our inquiry discovered from three former waitresses, two of whom had been working in the hotel lounge when Ms. L's leave had been approved, that she had used the normal process for requesting time off. These girls indicated that the assistant bar manager habitually approved time off and the two said they had actually seen Ms. L's application, signed as approved. These witnesses also supported Ms. N and it was established that she had not applied for annual leave as she was a part-time employee, but she had asked for the full period as time off without pay.

While my investigation was not directed at validating the claims, the information obtained by my investigator, correct or not, was certainly material to the issue. Quite reasonably, I thought, I felt the department's effort fell short of what was required for a full assessment of the circumstances. The inspector's information was very one-sided and, significantly, the management version of the affair was not discussed with the claimant. It was accepted as presented, without confirmation or checking and, in light of what we had learned, this was not an adequate inquiry. At this point, and indeed throughout, it has only been my contention that the department had not gathered sufficient information to make a properly informed decision on the claim.

In the matter of Ms. N's complaint, the indication from the department was that a claim was not taken since she was not entitled to annual holidays when she actually took time off. However, as aforementioned, it was established that Ms. N had taken time off without pay for the entire period of her absence from work, and it was evident that the department official gave her concerns scant attention, if any, and erroneously based his conclusion on the "inquiry" into Ms. L's case.

Following my investigation of these complaints I advised the deputy minister:

"The purpose of our investigation was to assess the sufficiency of Labour's investigation and we have not ourselves gone far

enough to make any decision on the girls' claims. This is the function of your officials, but they surely need all the relevant information before finding in favour of either party.

From the above I find the investigation of these claims was inadequate for the purpose of reaching any supportable decision and I propose to recommend the re-investigation of both claims."

This provoked a defensive reply which only served to prove the department's investigation had not covered all the bases and, therefore, had not fulfilled its obligation to the claimants to perform a full investigation. A further submission to the deputy minister did result in the file being assigned to a senior inspector for re-investigation.

While I am pleased to report the re-investigation resulted in a settlement in favour of our two complainants, I would re-emphasize that this was not our only concern. What we sought to discover was whether or not the departmental investigation had been sufficient to support the negative decision in Ms. L's case and the refusal to investigate in Ms. N's case. Clearly it was not, and these two complaints highlighted a seeming tendency on the part of some Labour Standards Officers to primarily utilize management as their source of information or contentious wage issues, and to ignore the claimant and his/her co-workers.

I say "seemingly" because our case experience is limited, but it is mounting. A case with some parallels at least in this respect is cited below.

#83-16000-40-14

The complainant in this case came to my office dissatisfied with the Department of Labour's handling of his claim for unpaid (underpaid) overtime. The worker's allegation was that his employer only paid double time rates on half the overtime hours worked, although his employment called for doubled time for all overtime hours. Thus, if he worked four hours overtime he would be paid double time for two hours and nothing for the other two hours, so that he was effectively working overtime at straight time rates.

This claim had been presented to the Department of Labour (at the complainant's local office) in November 1982, but the case was referred to Regina and in June of 1983 the worker was advised his claimed overtime hours appeared to be travel time and not subject to overtime rates. In August 1983 this was confirmed in a letter which informed him he had actually been overpaid, although the Inspector wrote —

"A considerable amount of time has been spent by myself and two people at _____, reviewing the entire payroll records on a day to day basis to attempt to uncover evidence relating to your alleged claim for overtime pay outstanding, however, we are at a loss to see where the discrepancies are."

the employee's point of view was never sought. The net effect was that the claim was again written off *solely* on the basis of information from the employer.

As an aside, but not entirely unrelated, I should add that the earlier (June 1983) letter also dealt with a claim for pay in lieu of notice. It advised that our complainant had been discharged for cause and was not entitled to pay in lieu but, as with the overtime issue, the Labour Inspector relied entirely on the employer's version of the case.

The circumstances of our complainant's employment was that he lived in one centre, and his company's headquarters were in another centre. It was a requirement of his employment that he collect a truck and equipment from the centre where he lived and drive either to the company headquarters or directly to a particular job site. He would then have to return the truck and equipment in the evening. The claim for overtime was based on his work hours running from when he picked up the truck in the morning to the time he returned it each evening, and not from the time he arrived at the work site.

Subsequent to this, the department did obtain a legal opinion which indicated that if the worker was travelling from his home centre to his usual work location, then the company was providing a benefit by allowing him to utilize company transport. This would equate with providing a more favourable condition of work than required by the legislation and would negate a claim for overtime for the time involved.

However, we felt that if the picking up of the truck was a requirement of employment, rather than a mere convenience provided by the employer, where the employee had no choice but to drive the vehicle to the job site and return it in the evening, then it could not be considered a convenience arrangement within the scope of Section 72 of *The Labour Standards Act*.

Again, our information from the complainant was that it was definitely not a convenience arrangement, but the legal opinion obtained by the department was based solely on information from the employer and I felt I had no choice but to maintain my view that the issue had not been properly investigated. My next recommendation, therefore, was that the case be re-investigated by the department.

The response was that the matter was already being investigated and a week later our complainant was advised a certificate was being filed against the firm, although the employer still felt he did not have a claim and, according to the Inspector, had no records to support the claim (a matter of opinion depending on one's view of the travel time issue, and certainly subject to confirming or contrary information from the employee).

Although *The Labour Standards Act* does not specifically cover the issue of travel time it does deal with the time that employees are required to be at their employer's disposal. In this case, it appeared the complainant, as a condition of his employment, had to pick up a truck and equipment in the evening. The employee's argument was that he was working for his employer from the time he picked up the truck and there was certainly merit in his position. I did not consider that the Department Inspector, by only contacting the employer, had adequately inquired into the claim.

From my investigation I felt that there was sufficient merit in the worker's argument to justify at least a legal opinion on the overtime issue before the employer's point of view was accepted as correct, and I conveyed this to the deputy minister as a tentative recommendation.

The case was eventually scheduled for Court and could be resolved either way. In all this I would emphasize that I was not just making a case for the employee against the employer, but I was concerned that the department could write-off the claim merely on the basis of information from the employer, without any attempt being made to check that information with the employee who had, *prima facie*, a fair argument that his so called travel time was a condition of his employment. At any rate, the question begged more inquiry than mere contact with the employer and this was the basis for my recommendations. Whatever the final outcome I did not feel, and do not feel, that the department had fulfilled its obligations to the employee by only canvassing the issue with his employer.

THE WIZARD OF ID

by Grant parker and Johnny hart



By Permission of Johnny Hart and
News America Syndicate

This case raised doubts about another aspect of the Department of Labour's responsibilities under *The Labour Standards Act*.

We were approached by a woman who was frustrated by the lack of assistance provided by the department when she approached it with an employment problem. Specifically, she could not understand why her former employer had not been prosecuted by the department for contravening section 74 of *The Labour Standards Act*. Section 74 prohibits employers from firing, threatening to fire or otherwise discriminating against employees who exercise their rights against employers under *The Labour Standards Act*.

Our complainant had originally lodged a complaint with the department when her employer had reduced her rate of pay upon her return from maternity leave in the summer of 1982. Thanks to the intervention of the department in 1982, our complainant's salary had been adjusted to the original and higher rate. According to information on the department's files, the employer was not happy about this adjustment and very candidly told the department's investigator that "this has cost her (the employee) her job". Within a few days of this conversation with the employer, the employer's husband called the same investigator and in the course of that conversation, threatened to fire the employee and specifically, according to department records stated, "she'll be gone, she'll either quit or give us reason".

In March of 1983, department files recorded another call from the husband of the employer wherein he stated that "it will please my . . . if we can boot her out of here". Soon after this conversation, our complainant received her pink slip and two week's pay in lieu of notice. It was at this point that she again sought the assistance of the department. When assistance was not forthcoming, she approached us in February of 1984.

Our investigation revealed that an investigator in the department had supported a recommendation that the former employer be prosecuted for violating Section 74 and that the preliminary legal advice was supportive of the department doing so. This recommendation had been made in November of 1983. In January of 1984, the investigator was advised that "you have no alternative but to close the file on this complaint". Two weeks later our complainant received a letter from the then deputy minister to the same effect. This was followed within another two weeks by a similar letter to her from the minister.

Given the limitations in my legislation regarding the decisions of deputy minister etc., I had no choice but to close my file, albeit reluctantly, on jurisdictional grounds. However, I am very uncomfortable with the handling of this complaint and have provided the acting deputy minister with my comments regardless of my jurisdiction to do so. I have included this case in my report for the same reason. It may have been handled appropriately but I will never know because of the jurisdictional question.

A secondary reason for reporting this case is to provide the members with a tangible example of the kind of frustration that comes with the present exclusions in *The Ombudsman Act*.

#84-16000-20-03 (OMBUDSMAN INQUIRY)

One of the major agencies for investigation by my office is the Workers' Compensation Board. During the course of receiving complaints concerning the Workers' Compensation Board, my staff are required to ensure that a complainant has pursued all appeal procedures. An office which has been set up specifically to assist injured workers in pursuing their appeals with the Workers' Compensation Board is that of the Worker's Advocate. This office is a part of the Department of Labour and funded directly by the department.

Through the fall of 1983 and into the spring of 1984, an increasing number of complainants were telling us that the office of the Worker's Advocate would be unable to handle their appeal with the Workers' Compensation Board for several months. These complainants were asking that my office intervene earlier than usual because of the delays in the office of the Worker's Advocate. As the number of complaints from injured workers which I had received was not small, I initiated an investigation on my own motion in March of 1984, to determine if the delays were excessive and, if so, the cause of these delays.

Upon notifying the Department of Labour of my intention to investigate, I was advised that a system and program review was ongoing within the department and that the office of the Worker's Advocate was also being examined. Early indications were that this review would take several months to complete and perhaps as long as a year. For this reason, I decided to proceed with my own investigation and to not await the results of the department's study. Our investigation focused on the number of cases being handled by the office of the Worker's Advocate as opposed to the quality of their service. In

result, I was able to determine the number of cases being handled by the office in relation to the number of staff at any given time. Vacancies had also been a significant factor in the operation of this relatively small unit and thus, I was able to evaluate the impact of these vacancies on the overall operation of the office and the question of unreasonable delay.

The investigation also confirmed a practice within that office that I was somewhat uncomfortable with. This practice was to accumulate a series of complaint files which were not assigned to any particular advocate. Apparently, it had been thought that each of the advocates already had a sufficiently high caseload and that new files coming into the office should be unassigned until an advocate had closed some of his or her old files. At this point, the new files were taken out of the unassigned category. Unfortunately, this practice and the absence of needed staff resulted in an accumulation of 6 to 7 months of unassigned files and an excessive delay between the date at which a person approached the office of the Worker's Advocate for assistance and the date upon which they actually first received assistance.

The statistical review conducted by my office also clearly demonstrated that the vacancies within the office of the Worker's Advocate had been a major contributing factor to the growth of an excessive backlog of cases within the office. After advocates had been fired or had resigned, permanent positions had been left unfilled for periods of several months while other positions, left vacant by temporary leave such as educational leave, were also left unfilled during these absences.

I advised the deputy minister of my findings. I also made specific recommendations to ensure any current or future staff vacancies would be filled immediately, including those vacancies created by leaves for educational or other purposes. I also recommended that the department hire temporary staff to reduce the backlog which had accumulated at the office of the Worker's Advocate. Finally, I recommended that the manager assigned to this office examine the backlog of unassigned cases and assign priorities within this category. I simply did not consider it appropriate to leave months of requests unassigned and unreviewed within the office.

A very prompt response was received to all my recommendations. The department confirmed that all four of their permanent positions had been filled and that although one additional vacancy was anticipated, steps would be taken to fill that vacancy almost immediately. Further, I was informed that two temporary advocates were being

hired to eliminate the backlog. Finally, I received confirmation that the unassigned backlog of files would be reviewed by the manager and that appropriate priorities would be established.

As my recommendations had been accepted, I concluded this file as a substantiated and rectified complaint. In my closing letter to the department I indicated that we would be assessing the length of the delays in January of 1985.

P.S. — In January of 1985, we tested the turnaround times in the Advocate's office to see if there had been any improvement since our recommendations were accepted last summer. We were able to satisfy ourselves that the time that elapsed between the time an injured worker approached the Advocate's office and the time that the advocate could work on his or her file had been cut in half. The situation will be monitored again in late 1985.

THE SASKATCHEWAN HOUSING CORPORATION — A COMMENT

As the members may be aware, the Saskatchewan Housing Corporation over the years has also not been the recipient of a high rating by my staff. There has also been a number of cases in my annual reports in which I was critical of the Corporation. In last year's annual report, I put it this way:

"While complaint volume against the Corporation (S.H.C.) increased from 13 complaints in 1982 to 34 in 1983, we encountered a much more co-operative attitude toward the public and my office. While it may be premature to conclude that we have entered a new era in our relationship with this Corporation, the shift in attitude that we perceived in 1983 is certainly worthy of mention."

In the intervening year I have become no less optimistic but feel that I should still be somewhat guarded in my comments. In the context of our investigations in 1984, the message from the Corporation has been at best, mixed. Even if one discounts the number of very difficult and hard cases assumed by S.H.C. when it acquired responsibility for the housing programs formerly administered by the Department of Northern Saskatchewan, there still appears to be a number of continuing problems. By way of example, I would refer the members to the following cases.

#83-18100-00-22

In the fall of 1983 I received a letter of complaint from a Regina woman about the Saskatchewan Housing Corporation. This complainant owned a home immediately adjacent to a housing project built by S.H.C. during the winter of 1982 and spring of 1983. This lady believed that her home had been damaged by the private contractor who had carried out the construction of the project for the Corporation.

Her letter of complaint described her unsuccessful attempts to have the damages to her home repaired. She initially had approached the contractor who expressed a willingness to remedy the problems, but failed to take any positive action. She had also approached S.H.C. but this had only resulted in unfulfilled assurances by the Corporation that the private contractor would make the necessary repairs. Finally, out of frustration she contacted my office for assistance.

Shortly after we advised S.H.C. of our investigation, officials of the Corporation met with our complainant at her home to inspect the damage. These officials concluded that the home was quite old and that the damage may have been due to the age of the home and not caused by construction activities.

The inspection of the premises by my investigator confirmed that the house was quite old and that some deterioration had likely taken place due to this factor. Still, by viewing the area in which the damages had taken place, there seemed to be little doubt but that the construction activity was at least partially responsible for the problems being experienced by our complainant.

In December of 1983, we were advised that S.H.C. was prepared to make repairs to the complainant's home. As the Corporation also owned the property on the other side of her home and was planning a development on this side of her home in the spring of 1984, the Corporation indicated that the repairs would be undertaken after the excavation on the new development had been completed. In this manner, both the past damage and any potential future damage to our complainant's home could be remedied at the same time.

Upon receiving this undertaking from S.H.C., I was satisfied that the complainant's problems would be properly addressed and concluded her file.

COMMENT: This case is an example of the improved attitude that we have found on the part of the Corporation in some of our cases.

Just bringing this problem to the Corporation's attention was sufficient to produce a remedy for an existing problem and a potential future problem.

#83-18100-00-24

A rural resident of southern Saskatchewan approached my office concerning warranty problems on a home constructed with S.H.C. assistance. The letter of complaint listed a number of deficiencies and expressed the opinion that the \$600 offered in lieu of repairs by the Corporation was insufficient to cover the cost of the repair work. This homeowner noted that they had moved into the home in 1979 and that *four years later, the warranty work was still not completed.*

Notice of my intention to investigate was provided to the Corporation in November of 1983. Later in that same month, S.H.C. revised their offer of a cash settlement to this homeowner upwards to \$1,500. The homeowner was pleased that the offer had been revised upwards, but still expressed some concern as to whether all of the necessary repair work could be completed for this price. In particular, the homeowner was concerned that the siding might need to be replaced due to the buckling that had occurred in one part of the house.

The Corporation finally decided to inspect the home to determine the seriousness of the siding problems and to discuss all these matters with the homeowner.

The inspection of the home confirmed a humidity problem. The siding problem was not considered to be too serious, however some additional warranty problems were accepted. Following this inspection, the offer of settlement by S.H.C. was increased to \$2,450. The homeowner decided to accept this offer and signed the appropriate release. As the homeowners were generally satisfied with the final settlement it was not necessary for me to make any formal recommendations. At the same time, I was still concerned that a home which had been constructed in 1979 still had not had the warranty work on it completed almost five years later. In result, I decided that there had been unreasonable delay by S.H.C. in meeting its responsibility to ensure that all warranty work was completed within a reasonable time.

Secondly, I was concerned that the final settlement was based on a percentage of the total cost of repairs and not on the total cost. In other words, the final settlement was not equal to 100% of the estimated cost of repair. The rationale for this policy was apparently

based on alleged savings to the homeowner if he completed the work himself. Additionally, the Corporation said it had experienced many problems in attempting to secure contractors to complete the work in rural areas.

The Corporation disagreed with my findings of unreasonable delay in the completion of the warranty work. The Corporation attempted to provide an accounting of the various problems experienced by the Corporation, both in the original construction of the home and in attempting to find contractors to complete the deficiencies. While it was obvious that the Corporation did experience problems in this regard, I remained of the view that my findings were justified. Simply put, persons entitled to warranty work should not have to wait for 5 years to have it done. On the question of S.H.C. paying only a percentage of the cost of repairs, the Corporation assured me that the homeowner still had the option of requesting the Corporation to have the actual repair work completed, as opposed to accepting the percentage cash settlement. Technically, this position by S.H.C. was an accurate one, however, a homeowner who has already waited 5 years to have repair work completed is very unlikely to refuse any cash settlement that they might receive from S.H.C.

COMMENT: This case is certainly not as positive as the last one. While the Corporation moved reasonably quickly to resolve this problem it still attempted to justify 4 years of delay and to justify the payment of a percentage of the repair costs when the primary reason for homeowner's acceptance of the reduced amount was his frustration and uncertainty about the Corporation's ability to get a contractor to perform the repair work within a reasonable time.

#83-18100-00-20

#83-18100-00-21

#83-18100-00-25

Over the years, housing problems have been a constant source of complaint from northern Saskatchewan. When these programs were the responsibility of the Department of Northern Saskatchewan it was also a constant source of work frustration. With S.H.C.'s assumption of these responsibilities I had hoped for better things and this may yet be the case. There has been some progress but there is still a long way to go to adequately meet the level of service to which northern residents are entitled.

In this case, it was necessary to submit a formal Ombudsman Report to the minister-in-charge before any admissions were obtained from S.H.C. and before any compensation was offered to the

homeowners for the Corporation's unreasonable delay in ensuring that essential repairs were made to the sewage systems of new homes.

This case involves three complaints from homeowners in Pelican Narrows about S.H.C.'s lack of action in repairing the sewer systems in their new homes. The complaints were received in the fall of 1983 and S.H.C. had first learned of the problem in June of 1983. We received all kinds of assurances that their sewage systems would be functional before freeze-up in 1983 but this did not happen. In result, the homeowners had to go through the winter without toilet facilities and I claimed compensation for them because of this inconvenience. Compensation was ultimately paid.

In my report to the minister I made the following observation:

"A member of the Saskatchewan public is entitled to expect common courtesy from its public service. This includes being treated with candor and having his or her problems seriously considered with reasonable promptness. Neither of these tests were met in these cases and further examples could easily be provided. While the Corporation is not exclusively to blame it cannot escape responsibility because the work was actually performed by its contractor. These files illustrate the folly in S.H.C. blindly accepting what it is told by its contractor and not testing this information through contact with the homeowners. This is especially true with regard to problems in remote parts of the province. This factor compounded the problems faced by these individuals and put the Corporation in the difficult position of, perhaps involuntarily, misleading its public and my office. The accuracy of the information provided by S.H.C. should not be an issue that requires effort by my office. Unfortunately, this has been the case in these files and others."

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART



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SOME "BOUQUETS"

SASKATCHEWAN GOVERNMENT INSURANCE

#84-26000-30-21

In 1979, we were approached by an individual who had been denied benefits by S.G.I. on the basis that he had not submitted his claim in time. The claim arose out of a 1979 accident in which the truck he had been driving collided with a semi truck trailer unit. There had been an explosion and our client had spent 7 months in hospital because of his injuries. S.G.I. re-investigated the claim and on a without prejudice basis, made a lump-sum payment of \$26,500 and weekly payments for life due to this man's permanent disabilities.

In 1984, we were approached by a man who had been a passenger in our former client's vehicle and who had been injured in the same accident. Our current client had suffered extensive burns to 25% of his body, had permanently lost the use of his hands and was permanently disfigured in several respects. Even though our complainant had settled his claim with S.G.I., the settlement amount was nominal and did not appear to include any ongoing disability payments. S.G.I. agreed to also re-consider this claim even though the original file had been closed and could no longer be located. After doing so, S.G.I. confirmed that additional benefits would be paid because of the degree of our client's permanent disabilities. In result, he received a retroactive payment of \$32,540, plus a weekly indemnity of \$150 for the rest of his life.

COMMENT:

This case attests to the fact that a crown corporation can operate on an efficient and business-like basis without losing its 'heart'. In both these cases, S.G.I. could have hid behind the legalities and denied any further benefits without any fear of legal consequences. It is very much to its credit that it looked at the 'fairness' in adopting a strictly legalistic position and decided that it had obligations that go beyond the question of whether or not it could be sued. These were exceptionally serious injuries and the Corporation was confident enough about its public responsibilities to not worry about making an exception where the circumstances justified doing so. This is one of the best examples I have seen of the advantages to the public in a melding of private and public sector approaches by a crown corporation.

HEALTH — M.C.I.C.

#82-13020-00-09

#82-13020-00-05

#82-13000-60-01

We regularly receive complaints from the public about being denied benefits for technical reasons or having to re-pay benefits received by them because of errors in government systems.

In the overpayment situation, I have been concerned about the impact on the individual if the mistake had been made by government and if the demand for re-payment created economic hardship. This concern with regard to injured workers produced certain changes in the Workers' Compensation Board policies many years ago, to 'write-off' these overpayments if there was economic hardship and if the error was made by the compensation system. While the impact of overpayments often had even more severe consequences for social assistance persons, I have never been successful in similar recommendations to the Department of Social Services. I expect to be re-submitting recommendations to this effect to the department in early 1985 and will inform the members as to my progress.

In 1982, we received a number of complaints on a similar issue involving refusals by M.C.I.C. to pay benefits when the claim for insured services had been submitted "too late". In three of our complaints there appeared to be extenuating circumstances for the late submission of these accounts to the Commission and after investigating, I conveyed my conclusions to M.C.I.C. and recommended that these individuals be reimbursed for the 'insured services' that they had received.

In all three cases, there was not an immediate acceptance as the Commission was quite properly concerned about creating a precedent with regard to the present time limits on the submission of medical and paramedical accounts. As is so often the case, administrative efficiency was the other side of our cases of individual hardship. In the course of our correspondence and conversations with the Commission it was agreed that M.C.I.C. did have the discretion to honor late claims if it wished to do so and that it should do so where there were extenuating circumstances beyond the control of the claimants. The most common example of this situation is where the physician or other professional is late in submitting the claim to

M.C.I.C. The patient rather than the professional pays the price for the delay in the form of a denial by M.C.I.C. based on the late submission of his or her account.

By early 1984, all three of these complainants had their medical claims honored by the Commission. Perhaps more importantly, subsequent complaints to my office on this subject have resulted in speedy resolutions without our having to resort to formal investigations. The exception is a narrow one but of considerable help to many members of the public. The Commission demonstrated a sensitivity to the public that is deserving of recognition. To illustrate this point, I would refer the members to a letter from a complainant who had benefitted from the Commission's revised policy:

"I would like to express my deep appreciation for the efforts of your office on my behalf. I had nearly given up on the Saskatchewan Medical Care Insurance Commission when it occurred to me that you may be able to help me cut through the catch-22 defence they had placed before me. Your offices, on the other hand, when contacted initially in Saskatoon, were prompt, encouraging, and began immediately to take the matter up with an astonishing absence of red tape.

Let me thank you once again not only for your help in this particular matter but also for making relations with government bureaucracy workable again."

DEPARTMENT OF REVENUE AND FINANCIAL SERVICES – MORTGAGE INTEREST REDUCTION PLAN

#84-11000-30-02

In the summer of 1982 the Canadian economy was experiencing a very volatile interest rate market. The Mortgage Interest Reduction Plan came into being and a large number of people applied under this program.

Our complainant had applied and with the information he had supplied on the application form at the time, the department determined that the applicable interest rate was 17% and provided benefits based on that rate. The prevailing rate of interest was based on the interest rate in the week of his application in October of 1982. Although our complainant had not indicated otherwise, he had in fact,

applied for and obtained his mortgage two months before he applied for the subsidy and was paying on a mortgage with an interest rate of 19¼%. This was the prevailing rate established by the bank when he obtained his mortgage in July of 1982.

The error was not recognized until late 1984 when the department was contacted by our office to ask for a review of his monthly interest entitlements. Program officials checked their information with the financial institution and realized that an error had occurred. Our complainant received retroactive benefits amounting to approximately \$1,000 and had his future monthly interest subsidy adjusted upwards to recognize the revised rate.

HORRIBLE HAGAR



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THE DEPARTMENT OF PARKS AND RENEWABLE RESOURCES

#83-22000-10-13

In August of 1983 my office received a complaint from an individual who was a commercial fisherman in the Christopher Lake area.

It was alleged by our complainant that while he was fishing in February of 1983 he was charged by a Resource Officer from the Department of Parks and Renewable Resources for fishing without a commercial license. At the time of this incident, the Resource Officer seized 142 fish as evidence for the pending court hearing. While awaiting trial, the fish were placed in a freezer in Prince Albert for safe-keeping and preservation. When the court heard his case it found him not guilty. As a consequence of his acquittal he was entitled to have his fish returned to him.

When he attended at the freezer where the fish were being stored, he discovered that they had suffered freezer-burn and were now unfit for human consumption. The complaint to my office was that the department had failed to take the action necessary to ensure that his fish were protected from damage while in the department's care and custody.

Our investigation revealed that adequate steps had not been taken by the department in the packaging of the fish to protect them from freezer-burn and on that basis, the complaint was considered substantiated. While the initial response from the department was that the onus for proper packaging lay with our complainant, the department ultimately agreed to pay compensation for the damaged fish.

#83-22000-10-16

Our office was contacted in the fall of 1983 by a beekeeper from northern Saskatchewan. His original concerns involved the Wildlife Landowner Assistance Program operated by the Department of Parks and Renewable Resources. Our client had experienced difficulties with bears destroying his hives during the early fall and he had turned to the department for assistance.

During our investigation it became very apparent that the procedures followed under the program were not sufficient to satisfy our test of procedural fairness. As a result, recommendations on this subject were presented and accepted by the department. My recommendations were:

1. THAT damage claim reports be completed in all instances where a landowner reports damage to a beehive operation.
2. THAT the landowner be provided a copy of the damage claim report.
3. THAT the claims for damage in bee related claims be processed in the same manner as other wildlife damage claims.
4. THAT where compensation is denied, the denial be in writing and accompanied by written reasons.
5. THAT a process be instituted so that a landowner is guaranteed an appeal or right of review by a specific departmental person should he wish to appeal a refusal by a resource officer.

Prior to these changes being instituted, a person who suffered damage presented his claim to the local conservation officer. If the conservation officer did not feel that there was merit to the claim, the denial by the conservation officer was the final word. With the acceptance of our recommendations, the department can now assure claimants under this program that their claim will be considered in a reasonable manner, that the claimant will be advised of the outcome, and that he or she will have an opportunity to appeal an adverse decision.



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THE SASKATCHEWAN POWER CORPORATION

#84-27000-10-23

On April 3, 1984, this complainant contacted my office to complain that because of delays on the part of Sask-Power, her application for a loan under the Warm-up Saskatchewan Program was treated as having been submitted too late and was denied.

In the initial response from the Corporation it took the position that, "The application, unfortunately, was misplaced and when the job completion certificate was received after the deadline for the program, the loan was denied." While this was the original position taken by Sask-Power, they promptly reconsidered the matter after they received our notification of investigation and decided to honour the application. This was an appropriate decision as the time limits should not run against a member of the public when the error was not by the citizen.

Our investigation revealed that while the date by which the loan approvals had to be obtained was February 29, 1984, our complainant had received approval on December 12, 1983. Furthermore, the job completion form which had to be submitted by May 31, 1984 had been completed and mailed to the Corporation on January 30, 1984. Obviously, our complainant met all the relevant deadlines and the Corporation's final decision reflected these facts.

THE DEPARTMENT OF EDUCATION

#83-4000-10-06

In the fall of 1983, I was approached by the mother of an 11 year old girl concerning some problems which she was encountering with the local school board in Yorkton. Although my office does not have the authority to investigate decisions made by local school boards, there was some indication that the Department of Education had been involved with this case and so I initiated an investigation to determine the adequacy of the actions taken by the department.

Our complainant's daughter had been seriously ill at the age of 3 and her illness resulted in her having a profound hearing loss. The child was almost totally deaf. Her mother had enrolled her in a specialized program in Alberta utilizing "Total Communications Methods". The family relocated in Yorkton in 1979 and commencing in the fall of 1979, she, at the age of 8, attended the R. J. D. Williams School for the Deaf in Saskatoon. She travelled back and forth to her home in Yorkton on the weekends.

Her travel to and from the school in Saskatoon continued until the fall of 1982 and had not posed any particular problems for her until that fall. In 1982, the child became very reluctant to return to the school in Saskatoon and was having particular problems with the 5 hour bus rides between her home and the school. As a result of these difficulties, her mother approached the Yorkton School Board with a view to establishing some type of program in the City of Yorkton, for her daughter.

A temporary program was instituted in the spring of 1983 only to be discontinued three months later. Varying opinions were present

concerning the effectiveness of the local program. Nonetheless, our complainant felt that her child had benefitted by being able to remain in her parental home and by the experience of belonging to a family on a daily basis. Educationally, some concern was expressed that the program was not entirely satisfactory and that if the program was to be continued, several improvements would have to be made.

The Board reviewed the situation and decided to not continue the local program in Yorkton. This meant that this student would have to go back to the R. J. D. Williams School in Saskatoon. It was the view of the school board that this child's educational needs could best be met at the specialized school in Saskatoon.

My investigation of this matter confirmed that the Department of Education had participated in an evaluation of the temporary program which had been provided in Yorkton. Additionally, the department had been actively involved in discussing the merits of the child's placement (either in Yorkton or Saskatoon) with both the mother of the child and the local school board. The department quite properly took the position that the actual decision as to where the program is to be provided is a decision which is made by the local school board and not by the department.

During the course of this investigation it also became apparent that the department was in the midst of considering the merits of institutional educational programs for deaf students as opposed to smaller, decentralized programs closer to the home community of the deaf student. At the time of our investigation, the evaluation was still in process and a pilot project had been established in the City of Regina that was showing some promise.

Our investigation of this case attempted to consider both the negative and positive aspects of an educational program provided in a central, institutionalized setting as well as a more localized program provided in the home community of the student. This was indeed a difficult question and perhaps one which was impossible to answer with precise certainty. Clearly, there are *educational* advantages to the specialized programs which can be offered in an institution such as the R. J. D. Williams School while there are *social and/or family* advantages to being able to remain with your family in your home community. However, since in this case, the mother felt that a suitable educational program could be offered in her home community, without seriously jeopardizing the child's educational welfare, I was of the view that the issue should be pursued.

The provisions of *The Ombudsman Act* prevents me from making any recommendations to a local school board. Instead, I recommended to the Department of Education that it again attempt to persuade the local school board to provide a suitable program for this student. I further recommended that the department also reconsider those provisions of *The Education Act* that give local school boards the final and absolute say in decisions involving special educational programs for handicapped students.

The department agreed to once again discuss this student's programming with the local school board. The department advised that this review would be conducted in the context of their ongoing review of educational services being provided to hearing impaired children. However, the department was not prepared to consider amendments to *The Education Act* as they felt it was important that the school boards retain exclusive responsibility for all decisions regarding the educational services provided to their pupils.

Based upon the department's willingness to again review this matter with the Yorkton School Division, I concluded my file. While I remained uncertain as to whether the department will be successful in convincing the local school board, I was satisfied that the department would make a reasonable effort and that the final decision in the absence of legislative change, does reside with the local board.

In the fall of 1984, I was informed by the Department of Education that this student had once again returned to the R. J. D. Williams School for the deaf in Saskatoon. The local school board had not been prepared to change their earlier position and had once more declined to provide local programming.

The department was able to confirm that their review of educational services for hearing impaired children was ongoing and that this review could in the long run, still have an impact on this student. However, it was not anticipated that this review could be of any direct benefit to her for at least another full school year.

NORTHERN COMPLAINTS

#80-19000-10-04, 05 and 06

In June of 1980 my office received a number of complaints from summer residents of Denare Beach who were facing an assessment

of some \$2,174 each for the cost of bringing sewer and water to their properties. The assessment occurred because of a Northern Municipal Council bylaw which provided for a charge-back to about 700 members of the community of \$600,000 towards the capital cost of the project.

Initially, some reservations were voiced by the then Department of Northern Saskatchewan about my jurisdiction in the matter. However, our investigation revealed that the amount of the charge-back had been set by the Department of Northern Saskatchewan and this, together with their acceptance of the Northern Municipal Council (N.M.C.) position that permanent residents in northern communities should not be charged for the provision of such facilities, left the local authority with no choice but to impose the charge-back on the non-residents. It was evident that the department was the force behind assessing the \$600,000 against the non-residents and I had no doubt as to my jurisdiction in the matter.

D.N.S. made no secret of their view that non-residents should not benefit from a policy designed specifically to help permanent residents in northern communities and maintained throughout that a charge-back to non-residents was reasonable because the department was absorbing the entire servicing cost to permanent residents as well as \$1,826 per lot for the non-permanent residents.

However, it was clear from the outset that the proposal was discriminatory in the legal sense and, additionally, that the local council's fear of dissension in the community because of the levy against several hundred non-residents was entirely justified. My review of the case satisfied me that the N.M.C. bylaw could be judicially challenged as discriminatory and quashed. Accordingly, I sought a solution which would remove the discriminatory aspect of the bylaw without disturbing the traditional government policy of supplying sewer and water services to northern communities at no charge to the permanent residents.

In communicating with the department, I suggested that the elimination of the entire charge-back was a viable option and argued that it would be entirely wrong to eliminate the discriminatory aspects of the changes by charging any amount to the permanent residents.

My findings and conclusions underwent protracted discussion and consideration and formal findings were not submitted until February of 1983. Deliberations continued throughout 1983 and it was not

until the end of October that I received notice that the department had presented a submission for Treasury Board consideration. I was prepared for a further lengthy delay and was pleasantly surprised to receive a copy of a letter dated January 16, 1984, advising the Mayor and Councillors of Denare Beach that "... your commitment to a cost recovery on the (sewer and water) system is hereby forgiven".

It was a long time coming but the result was compensation enough for the wait. The policy of providing water and sewer services in the north at no cost to permanent residents was sustained and a discriminatory bylaw that wrongly imposed charges on only a part of the community of Denare Beach was also acknowledged as being null and void.

#84-25000-10-44

#84-25000-10-45

#84-25000-10-46

#84-25000-10-50

In September, one of my investigators, after being in a number of northern communities, came back to Saskatoon with complaints involving the decision that Sask-Tel would take over the radio telephone service from the Department of Parks and Renewable Resources on April 1, 1985. The concerns were very practical ones and in some respect went to the heart of the differences between living conditions in the south and those in the north. The concern related to a lack of confidence in Sask-Tel's present system, the removal of the present key stations that acted as a link between trappers and others in emergency and other situations and the direct and indirect costs to northerners because of the change.

While I opened investigations, I have not reported on this issue because of our involvement. It was minimal because 'people power' took over and brought a pause to the issue. Within weeks, an organization to lobby on behalf of northerners was established and literally hundreds of petitions against the change were gathered. Meetings between northerners and senior people in government and Sask-Tel took place with the result that government stood down their implementation dates until northerners had been fully consulted. While this may only be a pause in the implementation of this proposal, it appeared to be a necessary pause. There was a need to ensure that

the consequences to northerners were fully known and if there were adverse consequences, that adequate time was available to mitigate those consequences.

The purpose of this comment is merely to recognize the collective efforts of those many northerners who organized to bring about a reconsideration of this proposal and its implementation date. I do not wish to comment on the merits of the proposal as I may well be called upon to do just that if there is a future decision to move to the Sask-Tel system.

COMPENSATION CASES

#83-16030-10-55

In April of 1983, I was approached by a Saskatoon trucking firm concerning a problem which it was encountering with the Workers' Compensation Board and the Saskatchewan Power Corporation. This firm provided services to the Power Corporation and was complaining that S.P.C. was withholding the payment of one of their accounts because of alleged arrears which the trucking firm had with the Compensation Board. The firm was of the opinion that their dealings with the Board should be treated as separate and apart from their dealings with the Saskatchewan Power Corporation as they had settled their account with the Compensation Board.

The investigation of this complaint confirmed that section 133 of *The Workers' Compensation Act* did provide the authority for the Power Corporation to withhold payments from the firm when it was in arrears with the Workers' Compensation Board. As such, I was unable to disagree with the position taken by the Power Corporation in withholding their payment.

At the same time, the investigation also revealed that the trucking firm had made arrangements with the Board to correct their arrears problem. The arrangements had been made several months prior to the decision by the Power Corporation to withhold the payment in question. The investigation confirmed that it was essentially a routine check by the Corporation that had produced the information that the firm was in arrears at the relevant time.

My concern with this arrangement was that the information was in error and that the trucking firm was not aware of the information

which had been provided to the Corporation by the Board. In other words, when the Compensation Board had notified the Power Corporation that our client was in arrears, the client had not been made aware of the accuracy of the relayed information or the possible repercussions. In my view, the credit information that had been provided to the Power Corporation should have been provided in writing to our client and any other employer.

The Compensation Board indicated that they were prepared to accept my recommendation but noted that implementation would have to be postponed until the computerization of their system.

In September of 1984, I was informed that the computerized clearance process had now been implemented and was working well. On this basis, I considered the complaint to have been both substantiated and rectified and closed my file.

#84-16030-10-35

An individual complained to my office that his benefits from the Workers' Compensation Board had been terminated due to his attendance at a spouses' program at an Alcohol Rehabilitation Centre. This man believed that the termination of his benefits was unfair as he was attending this program on a voluntary basis and was free to leave at any time to accept employment if an opportunity arose.

Upon investigating this matter, it was determined that this individual was actually receiving benefits from the Vocational Rehabilitation Department of the W.C.B. Although he was not considered fit for his normal work, he was considered capable of looking for alternate, lighter employment. The benefits which were being provided to him by the Rehabilitation Department were on the basis of his looking for suitable employment.

After reviewing this matter, I concluded that the suspension of benefits in this particular case was unreasonable since our client was free to leave the program at any time. I advised the W.C.B. of my findings and recommended that the Board reinstate the benefits lost during the period of suspension.

The Board promptly accepted my recommendation and issued a retroactive payment which effectively reinstated his full benefits.

CORRECTIONS CASES

#83-2000-30-67

After several years of effort, a policy that allowed direct telephone access to my offices by inmates was established with the co-operation of corrections officials in 1983. I was therefore a little surprised, when a local lawyer contacted my office on behalf of his client because his client had been denied telephone access to my Regina office. The inmate had attempted to reach us because he had been placed in 23 hour a day lock-up and had been denied exercise for 5 days. My investigation revealed that the lock-up was precipitated by an assault on the range by this inmate and that the standing orders established by the centre required one-half hour of exercise per day outside of the cell unless the director revoked this privilege for security reasons. My investigation indicated however, that the exercise restriction had been imposed by a junior member of the management staff in contravention of the standing orders.

The department response agreed with my findings and assured me that all staff would be made aware of the telephone access policy. As well, they advised that the staff member who had contravened the standing orders with regards to inmate exercise had been counselled regarding this incident.

WIZARD OF ID

BY BRANT PARKER & JOHNNY HART



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#84-2000-30-47

An inmate from the Saskatoon Correctional Centre lodged a complaint about disciplinary decisions by the Centre. He and another inmate had noticed that the outside door in their living unit was left unlocked after he and the other inmates had come in for their supper meal. The door should have been locked and so they at-

tempted to let the staff know that there was a problem. The staff refused to listen to them and so this inmate and a companion went out the unlocked door and knocked on the staff room window to let the staff know that the door was open. They were outside only a few seconds and without being told, promptly re-entered the living unit.

When the staff reported the incident the two inmates were charged with being in an unauthorized area and taken to the medical cells in the main block of the centre until cells could be found in a higher security area of the centre. None could be found and as one of the two medical cells was occupied they were both ordered to go into one of the medical cells. These cells are 8' by 10' with only one cot. One of the inmates refused because he mistakenly thought they would both have to remain in that cell for the entire week-end. The refusal produced more charges against one of the inmates, i.e. — refusing a direct order and swearing.

When charges were heard by the disciplinary panel one inmate received 3 days of cell confinement for being in an unauthorized place while the other received 10 days for the same offence and the other charges.

After investigation, I was not satisfied that the charges of being in an unauthorized area were appropriate even though technically correct. If the staff had locked or closed the door in question or listened to the inmates, the inmates would not have been in an unauthorized area. In short, it was an excessive reaction to a minor incident and one likely brought on by some recent escapes and staff embarrassment that the living unit door had been left unlocked. The department agreed and the charges and convictions for being in an unauthorized area were deleted from the inmates' records at the Centre.

WIZARD OF ID



BY BRANT PARKER & JOHNNY HART



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PART IV
STATISTICS

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Complaints closed against Saskatchewan departments and agencies — 1984	p. 77
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PART IV **STATISTICS**

TOTAL COMPLAINTS RECEIVED — 1984

	Against Saskatchewan Departments and Agencies	Not Against Saskatchewan Departments and Agencies	Total
January	84	123	207
February	107	112	219
March	128	102	230
April	111	109	220
May	106	119	225
June	116	119	235
July	103	117	220
August	102	77	179
September	102	85	187
October	162	121	283
November	132	147	279
December	117	72	189
	1,370	1,303	2,673

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES January 1 to December 31, 1984

Category	Number	%
Consumer	358	27.5
Federal	188	14.4
Local Government	87	6.7
Professional	35	2.7
Private	246	18.9
Courts/Legal	196	15.0
Family	12	.9
Other	168	12.9
Medical	13	1.0
	1,303	100%

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984

Department — Agency Board and Commission	Department Code No.	Totals
Agriculture — General	1000-10	8
— Lands Branch	1000-30	8
Agricultural Implements Board	1010-00	2
Lands Allocation Appeal Board	1020-00	2
Milk Control Board	1040-00	6
Saskatchewan Crop Insurance Board	1050-00	4
Agricultural Credit Corporation of Saskatchewan	1060-00	11
Department of Justice — General	2000-10	11
— Court Services Branch	2000-20	6
— Corrections Branch	2000-30	142
Administrator of Estates	2010-00	2
Land Titles	2020-00	4
Official Guardian	2030-00	4
Criminal Injuries Compensation Board	2040-00	3
Saskatchewan Legal Aid Commission	2060-00	11
Saskatchewan Police Commission	2070-00	1
Saskatchewan Human Rights Commission	2100-00	4
Consumer and Commercial Affairs — General	3000-10	3
— Corporations Branch	3000-20	2
— Insurance and Real Estate Branch	3000-30	2
— Licensing and Investigation	3000-40	3
— Rentalsman	3000-50	22
— Rent Appeal Commission	3000-60	5
— Provincial Mediation Board	3000-80	4
Advanced Education and Manpower — General	4000-10	15
— Wascana Institute	4000-20	2
— Apprenticeship and Standards	4000-30	2
Community Colleges	4500-10	1
Co-operation and Co-op Development	5000-10	1
Culture and Recreation	6000-10	1
Saskatchewan Arts Board	6010-00	1
Education — General	7000-10	3
Saskatchewan Centre of the Arts	7060-00	1
Environment — General	8000-10	3
Watershed Associations	8100-10	1
Saskatchewan Water Corporation	8200-10	1
Department of Finance	10000-10	3
Department of Revenue and Financial Services —		
General	11000-10	8
— Revenue Division	11000-30	3
Supply and Services — General	12000-10	2

Department — Agency Board and Commission	Department Code No.	Totals
Health — General	13000-10	13
— Psychiatric Services Branch	13000-20	2
— Saskatchewan Aids to Independent Living	13000-30	1
— Saskatchewan Dental Plan	13000-50	1
— Saskatchewan Hospital Services Plan	13000-60	3
— Saskatchewan Prescription Drug Plan	13000-70	2
— Continuing Care Division	13000-80	5
Alcoholism Commission	13010-00	3
Saskatchewan Medical Care Insurance Commission ..	13020-00	5
South Saskatchewan Hospital Centre	13040-00	2
Highways and Transportation	14000-10	5
Highway Traffic Board	14010-00	14
Saskatchewan Transportation Company	14030-00	1
Economic Development and Trade — General	15000-10	1
S.E.D.C.O.	15020-00	1
Labour — General	16000-10	3
— Workers' Advocate	16000-20	3
— Labour Services Division	16000-40	33
— Safety Services Branch	16000-60	4
Labour Relations Board	16010-00	1
Workers' Compensation Board	16030-10	194
Liquor Board	16040-00	4
Liquor Licensing Commission	16050-00	1
Surface Rights Arbitration Board	17020-00	1
Saskatchewan Minerals	17040-00	1
Rural Development — General	18000-10	3
Public and Private Rights Board	18050-00	1
Saskatchewan Assessment Appeal Board	18060-00	4
Saskatchewan Housing Corporation	18100-00	34
Municipal Housing Authorities	18200-00	14
Urban Affairs — General	18300-10	10
— Property Improvement Grant	18300-20	4
Provincial Library	20000-10	1
Saskatchewan Research Council	21010-00	1
Parks and Renewable Resources	22000-10	14
Saskatchewan Forest Products Corporation	22010-00	1
Department of Tourism and Small Business	22030-00	1
Social Services — General	23000-10	11
— Community and Personal Services	23000-20	7
— Regional Services Division	23000-40	253
Core Services	23010-00	1
Social Services Appeal Board (Provincial)	23020-00	15
Public Service Commission — General	24000-10	9
Public Service Superannuation Board	24010-00	3

Department - Agency
Board and Commission

Department
Code No.

Totals

Public Employees Benefits Agency	24020-00	3
Sask Tel - General	25000-10	61
Saskatchewan Government Insurance - General	26000-10	19
- Motor Licencing Division	26000-20	26
- Claims General	26000-30	175
Saskatchewan Power Corporation	27000-10	77
		1,370

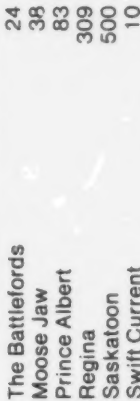
MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES - 1984

Alameda	1	Clavel	1
Allan	1	Cole Bay	2
Arborefield	1	Coleville	1
Arcola	1	Craven	1
Arelee	1	Creelman	1
Assiniboia	2	Creighton	2
Avonhurst	1	Cumberland House	3
Aylsham	1	Cut Knife	2
Baldwinton	1	Dafoe	1
Balgonie	1	Davidson	1
Battleford	7	Delisle	2
Beechy	1	Denare Beach	2
Big River	5	Denzil	1
Biggar	1	Dinsmore	1
Bjorkdale	1	Duck Lake	2
Blaine Lake	2	Dundurn	1
Bradwell	1	Eastend	1
Broadview	1	Eatonia	2
Buffalo Narrows	8	Ebenezer	2
Bulyea	1	Elfros	2
Bushell Park	1	Esterhazy	3
Candle Lake	1	Estevan	5
Canora	2	Eston	1
Canwood	2	Fillmore	2
Carlton	2	Foam Lake	1
Carlyle	2	Fox Valley	1
Carnduff	1	Glenside	1
Caron	2	Glentworth	1
Carrot River	2	Glidden	1
Chagoness	1	Gouldtown	1
Chaplin	1	Grandora	2
Chitek Lake	2	Gravelbourg	2
Choceland	1	Guernsey	2
Christopher Lake	2	Gull Lake	1

Hanley	1	Mervin	1
Hendon	2	Midale	1
Hoey	1	Mont Nebo	1
Hudson Bay	4	Montmartre	3
Humboldt	8	Moose Jaw	38
Hyas	1	Moosomin	2
Ile-a-la-Crosse	4	Mortlach	1
Indian Head	3	Mossbank	1
Ituna	1	Mozart	1
Jansen	1	Muenster	1
Kamsack	1	Naicam	1
Kelvington	1	Neville	1
Kenaston	1	Nipawin	13
Kennedy	1	Nokomis	2
Khedive	1	Norquay	1
Kindersley	2	North Battleford	17
Kinoosao	1	Ogema	1
Kipling	2	Osler	1
Kisbey	1	Outlook	3
Kronau	2	Oxbow	2
La Loche	3	Paddockwood	1
La Ronge	7	Paradise Hill	1
Lang	1	Paynton	1
Langenburg	3	Pelican Narrows	2
Langham	4	Pelly	1
Lanigan	2	Pennant	1
Laporte	1	Perdue	2
Lashburn	1	Pilot Butte	3
Leask	1	Pinehouse Lake	4
Leoville	1	Ponteix	4
Leroy	2	Porcupine Plain	1
Lisieux	1	Preeceville	2
Livelong	2	Prelate	1
Lloydminster	6	Prince Albert	83
Love	5	Prud'homme	1
Lumsden	3	Punnichy	1
Macklin	1	Radisson	4
Macoun	1	Radville	2
Maidstone	1	Rapid View	1
Mankota	2	Redvers	1
Maple Creek	4	Regina	309
Margo	1	Regina Beach	1
Martensville	7	Ridgedale	2
Meacham	1	Rocanville	1
Meadow Lake	1	Rockford	1
Meath Park	1	Rose Valley	2
Medstead	2	Rosetown	2
Melfort	6	Rosthern	2
Melville	6	St. Benedict	1
Meota	1	St. Isidore-de-Bellevue	1

St. Louis	1	Viscount	2
St. Walburg	1	Vonda	1
Sandy Bay	2	Wadena	3
Saskatoon	500	Wakaw	4
Scout Lake	1	Waldheim	1
Semans	3	Watrous	3
Shaunavon	4	Wawota	2
Shell Lake	1	Weldon	2
Shellbrook	3	Weyakwin	1
Smeaton	2	Weyburn	4
Smiley	1	White City	1
Southey	1	White Fox	3
Spiritwood	1	Whitewood	1
Spruce Home	1	Wilcox	1
Sturgis	2	Wood Mountain	1
Swift Current	10	Yellow Grass	1
Sylvania	1	Yorkton	4
Tisdale	5	Zenon Park	1
Togo	1		
Torquay	1		
Turnor Lake	1		
Turtleford	1		
Tuxford	1		
Unity	2		
Uranium City	1		
Vawn	1		
		Out of Province	
		Alberta	6
		British Columbia	3
		Manitoba	6
		Ontario	5
		Quebec	1

PROVINCIAL CONSTITUENCIES
The Representation Act 1981
(64 Constituencies)



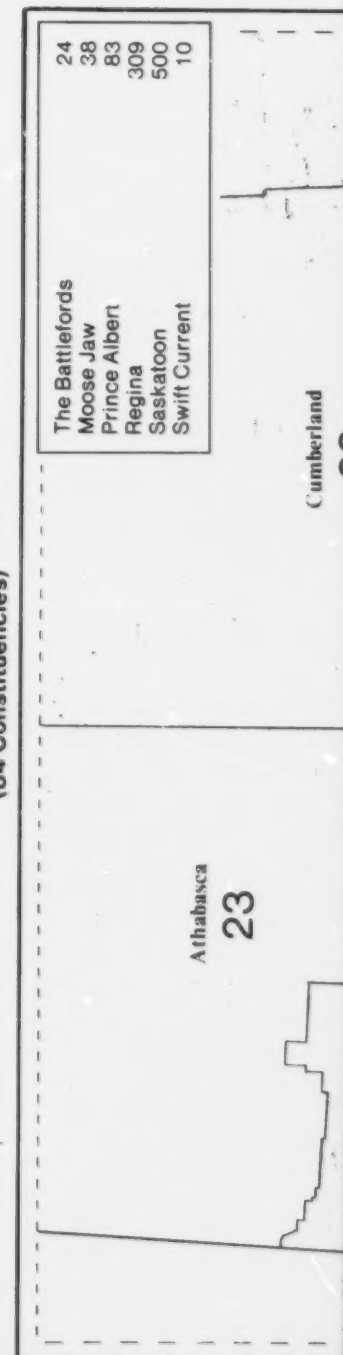
St. Louis	1	Viscount	2
St. Walburg	1	Vonda	1
Sandy Bay	2	Wadena	3
Saskatoon	500	Wakaw	4
Scout Lake	1	Waldheim	1
Semans	3	Watrous	3
Shaunavon	4	Wawota	2
Shell Lake	1	Weldon	2
Shellbrook	3	Weyakwin	1
Smeaton	2	Weyburn	4
Smiley	1	White City	1
Southey	1	White Fox	3
Spiritwood	1	Whitewood	1
Spruce Home	1	Wilcox	1
Sturgis	2	Wood Mountain	1
Swift Current	10	Yellow Grass	1
Sylvania	1	Yorkton	4
Tisdale	5	Zenon Park	1
Togo	1		
Torquay	1		
Turnor Lake	1		
Turtleford	1		
Tuxford	1		
Unity	2		
Uranium City	1		
Vawn	1		

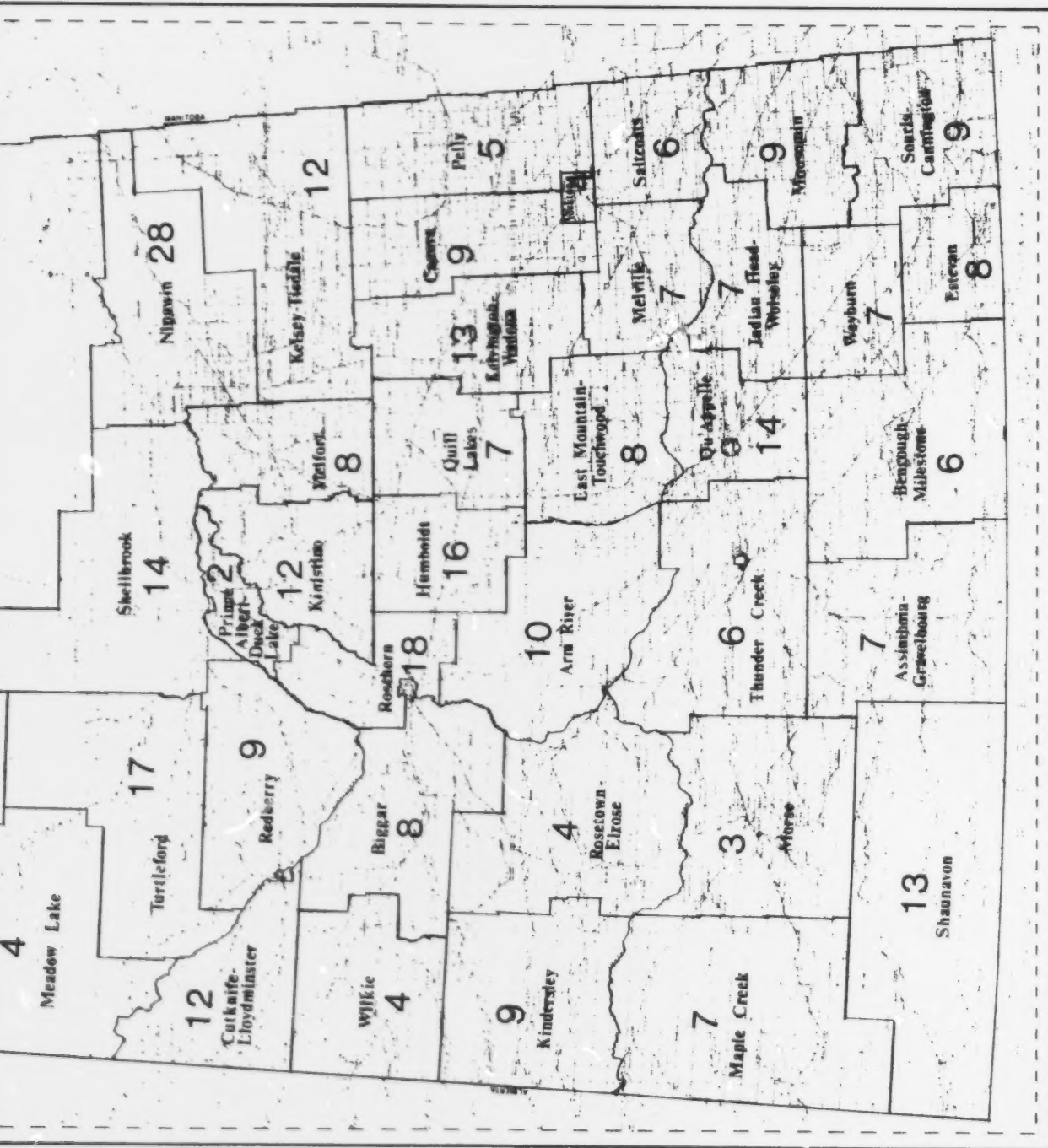
Out of Province

Alberta	6
British Columbia	3
Manitoba	6
Ontario	5
Quebec	1

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984

PROVINCIAL CONSTITUENCIES The Representation Act 1981 (64 Constituencies)







COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984

Department - Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substant	No Juris.	Discont.	Totals
Agriculture — General	1000-10	—	2	4	1	—	7
— Family Farm Improvement Branch	1000-20	—	—	1	—	1	2
— Lands Branch	1000-30	—	2	11	2	3	18
Lands Allocation Appeal Board	1020-00	—	—	4	—	—	4
Milk Control Board	1040-00	—	—	1	—	2	3
Saskatchewan Crop Insurance Board	1050-00	—	—	2	1	2	5
Saskatchewan Farm Start Corporation	1060-00	—	—	2	—	6	8
Department of Justice — General	2000-10	—	1	2	7	4	14
— Court Services Branch	2000-20	—	—	—	2	1	3
— Corrections Branch	2000-30	10	12	45	7	33	108
Administrator of Estates	2010-00	—	—	—	2	—	2
Land Titles	2020-00	1	—	1	—	2	4
Official Guardian	2030-00	—	—	—	1	1	2
Criminal Injuries Compensation Board	2040-00	—	—	—	—	1	1
Saskatchewan Legal Aid Commission	2060-00	1	—	1	2	4	8
Provincial Mediation Board	2090-00	—	—	1	—	—	1
Saskatchewan Human Rights Commission	2100-00	1	—	—	1	1	3
Consumer and Commercial Affairs — General	3000-10	1	—	5	—	—	6
— Corporations Branch	3000-20	1	—	1	—	—	2
— Insurance and Real Estate Branch	3000-30	—	—	1	—	—	1
— Licensing and Investigation	3000-40	—	—	1	2	—	3
— Rentalsman	3000-50	4	—	3	3	8	18
— Rent Appeal Commission	3000-60	—	2	3	1	1	7
— Provincial Mediation Board	3000-80	1	—	—	1	2	4

Department - Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Totals
Advanced Education and							
Manpower — General	4000-10	2	3	3	1	2	11
— Wascana Institute	4000-20	—	—	2	—	1	3
— Apprenticeship and Standards	4000-30	1	—	—	—	—	1
Community Colleges	4500-10	—	—	1	—	—	1
Co-operation and Co-op Development	5000-10	1	—	—	—	—	1
Culture and Recreation	6000-10	—	—	—	1	—	1
Education — General	7000-10	—	—	—	2	1	3
Saskatchewan Centre of the Arts	7060-00	—	—	—	—	1	1
Environment — General	8000-10	—	1	1	3	5	10
Saskatchewan Water Corporation	8200-10	—	—	—	—	1	1
Department of Finance	10000-10	—	—	2	—	—	2
Department of Revenue and Financial							
Services — General	11000-10	2	—	1	1	3	7
— Revenue Division	11000-30	—	—	1	—	1	2
Supply and Services — General	12000-10	—	—	—	—	1	1
Saskatchewan Government Printing	12010-00	—	—	—	—	1	1
Health — General	13000-10	2	—	7	5	4	18
— Psychiatric Services Branch	13000-20	—	2	—	—	4	6
— Saskatchewan Aids to Independent							
Living	13000-20	—	—	—	—	1	1
— Saskatchewan Dental Plan	13000-50	1	—	—	—	—	1
— Saskatchewan Hospital Services							
Plan	13000-60	—	3	—	—	—	3
— Saskatchewan Prescription Drug							
Plan	13000-70	—	—	1	—	2	3
— Continuing Care Division	13000-80	—	—	1	1	1	3
Alcoholism Commission	13010-00	—	—	1	1	1	3
Saskatchewan Medical Care Insurance							
Commission	13020-00	—	2	2	1	1	6
South Saskatchewan Hospital Centre	13040-00	—	—	—	1	—	1
Highways and Transportation — General	14000-10	—	—	5	1	1	7

Highway Traffic Board	14010-10	1	2	3	2	4	12
Economic Development and Trade	15000-10	—	—	1	—	—	1
S.E.D.C.O.	15020-00	—	—	—	—	—	1
Intergovernmental Affairs	15030-00	—	1	—	—	—	1
Labour — General	16000-10	—	2	3	3	3	11
— Worker's Advocate	16000-20	—	1	2	—	1	4
— Labour Services Division	16000-40	6	1	9	3	8	27
— Occupational Health and Safety Division	16000-50	—	—	—	—	1	1
— Safety Services Branch	16000-60	—	—	1	—	1	2
Workers' Compensation Board	16030-10	11	21	46	2	99	179
Liquor Board	16040-00	—	—	1	1	1	2
Saskatchewan Energy and Mines	17000-00	—	—	1	—	—	1
Surface Rights Arbitration Board	17020-10	—	—	1	—	—	1
Potash Corporation of Saskatchewan	17030-00	—	—	1	—	1	1
Saskatchewan Minerals	17040-00	—	—	—	—	—	—
Saskatchewan Mining Development Corporation	17050-00	—	—	1	—	—	1
Rural Development — General	18000-10	—	—	3	1	—	4
Local Government Board	18030-00	—	—	—	1	—	1
Public and Private Rights Board	18050-00	—	—	—	1	1	5
Saskatchewan Assessment Appeal Board	18060-00	—	1	3	1	—	28
Saskatchewan Housing Corporation	18100-00	3	9	9	1	6	12
Municipal Housing Authorities	18200-00	1	—	2	2	7	12
Urban Affairs — General	18300-10	2	—	2	8	2	5
— Property Improvement Grant	18300-20	1	—	2	—	—	5
Northern Saskatchewan — General	19000-10	—	5	—	—	—	3
— Resource Development Branch	19000-20	—	—	—	—	3	1
— Social Services Branch	19000-30	—	—	3	—	2	5
— Project Management Branch	19000-50	—	—	1	—	1	2
— Municipal Services Branch	19000-60	—	—	1	—	—	1
— Economic Development Branch	19000-70	—	—	1	—	—	1
— Northern Continuing Education	19000-80	—	—	1	1	—	1
Provincial Library	20000-10	—	—	—	1	—	—
Saskatchewan Research Council	21010-00	1	—	—	—	—	1

Department - Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Totals
Parks and Renewable Resources	22000-10	—	3	6	1	4	14
Saskatchewan Forest Products Corporation	22010-00	—	1	1	—	2	4
Social Services — General	23000-10	2	2	3	1	5	13
— Community and Personal Services	23000-20	—	1	4	—	1	6
— Community Affairs Branch	23000-30	—	1	—	—	1	2
— Regional Services Division	23000-40	50	11	25	13	109	208
— Social Services Branch	23000-50	—	—	—	—	1	1
Core Services	23010-00	1	—	1	—	—	2
Social Services Appeal Board (Provincial)	23020-00	—	—	3	—	2	5
Public Service Commission — General	24000-10	—	1	3	2	6	12
Public Service Superannuation Board	24010-00	—	—	1	—	1	2
Public Employees Benefits Agency	24020-00	—	—	2	—	—	2
Sask Tel — General	25000-10	23	1	11	—	18	53
Saskatchewan Government Insurance — General	26000-10	1	2	5	—	8	16
— Motor Licensing Division	26000-20	7	1	10	2	9	29
— Claims General	26000-30	31	15	49	4	63	162
Saskatchewan Power Corporation	27000-10	22	1	13	1	34	71
		192	113	351	101	511	1,268

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984

	Resolved	Rectified	Not Substan- tiated	No Juris- diction	Discon- tinued	Total
1977.....	—	—	—	—	4	4
1978.....	—	1	5	—	2	8
1979.....	—	4	7	1	4	16
1980.....	2	8	25	—	12	47
1981.....	6	8	44	1	8	67
1982.....	7	42	150	8	34	241
1983.....	64	86	203	76	470	899
	79	149	434	86	534	1,282

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1984

	Resolved	Rectified	Not Substan- tiated	No Juris- diction	Discon- tinued	Total
1973.....	—	1	—	—	—	1
1977.....	—	—	—	—	5	5
1978.....	—	—	—	4	6	10
1979.....	—	—	5	—	7	12
1980.....	—	4	9	—	8	21
1981.....	1	3	15	3	4	26
1982.....	2	5	26	—	5	38
1983.....	9	47	109	5	18	188
1984.....	180	53	187	89	458	967
	192	113	351	101	511	1,268



CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act*.

Interpretation

2. In this Act:

agency of the government

(a) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(i) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

department

(b) "department" means a department or branch of the executive government of the province;

minister

(c) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

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(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or
suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension
when Legis-
lature not in
session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(a) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(b) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application
of certain
Acts to
Ombudsman
and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

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Oath of office

8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath.

OATH OF OFFICE

"I, _____, do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same

9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE

"I, _____, do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy

10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers

11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers,
functions and
duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(a) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(b) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

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- (a) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and
- (b) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints
to Ombudsman

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint occurred. 1972, c. 87, s. 13.

Ombudsman
not restricted
by provisions
of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

- (a) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or
- (b) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions
on jurisdiction

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

- (a) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;
- (b) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

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justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

- (c) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;
- (d) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;
- (e) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;
- (f) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;
- (g) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (f) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of
jurisdiction
to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

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court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

- (a) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;
- (b) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (c) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;
- (d) in his opinion the circumstances of the case do not warrant investigation;
- (e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (f) during the course of an investigation it appears to him:
 - (i) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or
 - (ii) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

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Notice of
cessation
etc. of
investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of
investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of
investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

Ombudsman
may require
information
and examine
persons

22. — (1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause (f) of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

- (a) to furnish information to him; and
- (b) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

- (a) any person, other than a minister or a person mentioned in clause (f) of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;
- (b) any complainant; and
- (c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

- (a) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;
- (b) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

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Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

- (a) the deliberations of the Executive Council; or
- (b) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

- (a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:
 - (i) contrary to law;
 - (ii) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
 - (iii) based in whole or in part on a mistake of law or fact; or
 - (iv) wrong;
- (b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:
 - (i) for an improper purpose;
 - (ii) on irrelevant grounds; or

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- (iii) on the taking into account of irrelevant considerations;
or
- (c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

- (a) that a matter should be referred to the appropriate authority for further consideration;
- (b) that an omission should be rectified;
- (c) that a decision should be cancelled or varied;
- (d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;
- (e) that any law on which a decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should be given for any decision, recommendation, act or omission; or
- (g) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of
proposed
steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

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Review of
Ombuds-
man's
decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings
not subject to
review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings
against
Ombudsman
prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a broadcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of pre-
mises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

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Report by
Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

- (a) generally to the exercise of his powers and the performance of his duties and functions under this Act; or
- (b) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for
guidance

31.—(1) The Assembly may:

- (a) of its own volition; or
- (b) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and
penalties

32. Any person who:

- (a) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

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is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney
General may
intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to pro-
vide addi-
tional
remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.